

**REQUEST FOR APPLICATIONS**

**Conversion / Construction of New Rural Psychiatric and/or Substance Use Hospital Beds**

RFA Posted	December 2, 2016		
Questions Due	December 16, 2016		
Applications Due	February 3, 2017		
Anticipated Notice of Award	March 3, 2017		
Anticipated Performance Period	March 18, 2017 – March 18, 2020		
Service	N/A; Construction/Capital Improvement		
Issuing Agency	NC Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
E-mail Applications and Questions to	LaTonya Baker	Email	<a href="mailto:Latonya.Baker@dhhs.nc.gov">Latonya.Baker@dhhs.nc.gov</a>

**THIS REQUEST FOR APPLICATIONS (RFA)** advertises the Division’s need for the services described herein and solicits applications offering to provide those services pursuant to the specifications, terms and conditions specified herein. All applications received shall be treated as offers to contract. If the Division decides to accept an application, an authorized representative of the Department will sign in the space provided below. Acceptance shall create a contract that is effective as specified below.

**THE UNDERSIGNED HEREBY SUBMITS THE FOLLOWING APPLICATION AND CERTIFIES THAT:** (1) he or she is authorized to bind the named Contractor to the terms of this RFA and Application; (2) the Contractor hereby offers and agrees to provide services in the manner and at the costs described in this RFA and Application; (3) this Application shall be valid for 60 days after the end of the application period in which it is submitted.

**To Be Completed By Contractor:**

Contractor Name:	Catchment Area # (see p.5):
Contractor’s Street Address:	E-Mail Address:
City, State & Street Address Zip:	Telephone Number:
Name & Title of Authorized Representative:	DUNS Number:
Signature of Authorized Representative:	Date:

**Unsigned or Incomplete Applications Shall Be Returned Without Being Reviewed**

**NOTICE OF AWARD/FOR NC DHHS USE ONLY:** Application accepted and Contract # \_\_\_\_\_ awarded on \_\_\_\_\_. The Contract shall begin on \_\_\_\_\_, and shall terminate on \_\_\_\_\_.

By: \_\_\_\_\_  
 Signature of Authorized Representative      Printed Name of Authorized Representative      Title of Authorized Representative

## Table of Contents

Article	Title	Page No.
1.0	Introduction	3
1.1	Purpose	3
1.2	Background	3
2.0	Eligibility	4
3.0	Award Information	4
3.1	Source of Funds and Pass Through Requirements	5
3.2	Federal Funding and Accountability and Transparency Act (FFATA)	5
4.0	Definitions, Acronyms, and Abbreviations	5
5.0	Scope of Work	5
5.1	Programmatic Requirements and Priorities	7
5.2	Contractor Responsibilities	8
5.3	Performance Standards and Expectations	8
5.4	Reporting Requirements	8
5.5	Other Contractor Requirements	8
5.6	Contractor Qualifications and Capacity	9
5.7	Contractor Enhancements or Additional Considerations	9
6.0	Division Responsibilities	9
6.1	Performance Oversight	9
7.0	Term of Contract, Option to Extend	10
8.0	Budget	10
9.0	Invoicing and Reimbursement	10
10.0	The Solicitation Process	10
11.0	General Information On Submitting Applications	11
12.0	Application Content and Instructions	13
13.0	Evaluation Criteria and Scoring	16
ATTACHMENT A	Line Item Budget and Budget Narrative	18

ATTACHMENT B	Core Factors, Evaluation Criteria, and Scoring Guide	19
APPENDIX A	Terms and Conditions	21
APPENDIX B	Certifications and Assurances	45
APPENDIX C	North Carolina: US OMB Metropolitan (Urban) and Non-Metropolitan (Rural) Counties	62

## 1.0 **INTRODUCTION**

The purpose of this Request for Applications (RFA) is to expand psychiatric and substance use inpatient care capacity in community hospitals, which are located in rural counties and/or their adjoining counties and which currently have limited inpatient capacity, by constructing new beds or renovating and converting existing acute medical beds to form new inpatient psychiatric and substance use beds.

<http://www.ncga.state.nc.us/Sessions/2015/Bills/House/PDF/H1030v8.pdf>

## 1.1 **PURPOSE**

The General Assembly intends to increase short-term inpatient behavioral health bed capacity in rural areas of the State with the highest need. Funds from the Dorothea Dix Hospital Property fund shall be awarded to applicant hospitals that are selected via this Request for Applications process, and said funds shall be used to pay for any renovation or building costs associated with the following:

1. The construction of new licensed short-term, inpatient behavioral health beds.
2. The conversion of existing inpatient acute care beds into licensed short-term, inpatient behavioral health beds.
3. A combination of both new bed construction and conversion of existing beds, described in 1. and 2. above.

The hospitals selected to receive funding through this RFA process for the construction or conversion of beds into licensed short-term, inpatient behavioral health beds will not have to apply for nor receive certificate of need review by the Division of Health Service Regulation.

At least fifty percent of the constructed or converted beds shall be reserved by the hospital for purchase by the Department under the State-administered, three-way contract and referrals by local management entities/managed care organizations (LME-MCOs) of individuals who are indigent or Medicaid recipients.

At least one applicant hospital from the Eastern, Western, and Central regions of the State will be selected for funding through this application.

## 1.2 **BACKGROUND**

### Goal and Objectives

Increasing the number of psychiatric and substance use inpatient beds in rural community hospitals is intended to help reduce excessive wait times, (sometimes known as psychiatric boarding) in Emergency Departments (EDs) for persons needing an inpatient level of care and to reduce the distance of the inpatient care from the counties in which the individuals reside.

### Outcomes and Deliverables

1. Increase the number of licensed and operational psychiatric and/or substance use beds in rural counties and their adjoining counties with populations of at least 60,000;
2. Reduce wait times in EDs for persons needing psychiatric and/or substance use inpatient beds;
3. Reduce the distance traveled between the patient's county of residence and the county in which the inpatient care was delivered.

### Beneficiaries

1. People residing in rural counties and in the adjoining counties that have populations of at least 60,000, who are in need of psychiatric or substance use inpatient hospitalization,
2. Hospitals located in rural counties and hospitals that have or intend to have psychiatric and/or substance use inpatient beds, under the same hospital license, located in immediately adjoining counties that have populations of at least 60,000.

#### Target Population Served

Individuals who have psychiatric and/or substance use needs for treatment that meet medical necessity criteria for inpatient level of care. These individuals may have publicly or privately funded health insurance, or no health insurance to pay for their inpatient care. These individuals may also be under involuntary commitment.

#### Primary counties served

There are 54 counties that are identified as rural (non-metropolitan), in the most recent census data, and 30 counties with populations of 60,000 or higher that are immediately adjoining to a rural county.

## **2.0 ELIGIBILITY**

Hospitals that meet the following criteria will be eligible to submit an application to receive funding from the Dorothea Dix Property Fund to construct new inpatient beds, to convert existing acute care beds into psychiatric/substance use inpatient beds, or both:

1. Current and active hospital licensure; AND
2. Current minimal liability insurance coverage, \$1 million per occurrence, \$3 million in aggregate; AND
3. Hospital beds shall be located in a rural (non-metropolitan) county (see map & table in Appendix C.) OR
4. Hospital beds, which are included or will be included within the license of a hospital in a rural county, but are or shall be located in an immediately adjoining county with a population of at least 60,000 people (see map & table in Appendix C.).

## **3.0 AWARD INFORMATION**

### A. Funding Methodology

Funding will be contained in contracts, with pertinent requirements, between the NC DMHDDSAS and the hospitals that are selected vis-à-vis this application process described herein.

### B. Estimated # of Awardees

Minimum of three (3) applications will be awarded.

### C. Indirect Cost

Maximum of 10%

### D. Limitations and Restrictions

Applications that do not meet the eligibility criteria will not be considered, and will be returned to the applicant.

### E. Cost Sharing or Matching

No matching funds are required.

## F. Allowable Cost

The awardee must be familiar with allowable and unallowable costs as described in the Federal Register, Volume 78, No. 248, Part III, Office of Management and Budget. Refer to this link: <https://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>

### **3.1 SOURCE OF FUNDS AND PASS THROUGH REQUIREMENTS**

N/A 100% State Funding

### **3.2 FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)**

N/A 100% State Funding

### **4.0 DEFINITIONS, ACRONYMS AND ABBREVIATIONS**

**Indigent:** person who is without sufficient financial resources to be able to pay for the necessities of life, including for psychiatric or substance use inpatient care or who is unable to afford health insurance for such care health care.

**Operational:** describes the status of a hospital bed that is licensed as a psychiatric or substance abuse bed by the Division of Health Service Regulation, for which sufficient staff are assigned to provide psychiatric or substance use inpatient services, and for which services claims are submitted for payment each month.

**Three-way Psychiatric Inpatient Contract:** a contract, funded by appropriation from the NC General Assembly, among the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, a Local Management Entity – Managed Care Organization, and a community hospital to provide psychiatric or substance use inpatient care to persons who are indigent.

### **5.0 SCOPE OF WORK**

The scope of work for this initiative is founded upon the need to increase the number of operational psychiatric and/or substance use inpatient hospital beds throughout North Carolina, in areas that currently have insufficient capacity. The focus therefore is on developing more beds in rural counties and/or in their neighboring counties (i.e., adjoining counties with populations of 60,000 or more), which would offer shorter traveling time and distance to persons needing the inpatient level of psychiatric or substance use care.

While the thrust of this initiative is to incentivize hospitals to develop psychiatric and substance use inpatient beds in areas that need them, the ultimate goal of the funds is to pave the way to the delivery of appropriate and effective care to the individuals who will occupy those beds, especially to individuals who are indigent.

The applicant hospital shall:

1. Identify the number of beds that will be reserved for State-administered, three-way contract and referrals by local management entities/managed care organizations or individuals who are

indigent or Medicaid recipients.

2. Describe how the conversion/construction of the proposed beds will meet the requirements of the applicable regulatory codes linked below.
3. Convert and/or construct a sufficient number of beds to establish or increase the hospital's inventory of licensed and operational, short-term psychiatric and/or substance use inpatient beds to 18, within three years of the approval of the request for funding.
4. Submit application(s), in compliance with the regulations identified below, that apply to the proposed new psychiatric and/or substance use inpatient beds:
5. Name the hospital unit or location of the converted and/or constructed beds in honor of Dorothea Dix.
6. Indicate any specialized capacity or special population anticipated to be served (e.g., persons with intellectual/developmental disabilities and co-occurring mental illness or substance use disorders).

### **Compliance with Licensing and Regulations for Physical Plant Rules, Life Safety Standards, and Licensure of Psychiatric and Substance Abuse Inpatient Beds**

NC Division of Health Service Regulation (DHSR) conducts a review and approval process of applications for licensure of inpatient beds in North Carolina hospitals. The state licensure process to expand the scope of services or increase beds for the provision of behavioral health includes a review of the hospital's operational policies and procedures for the proposed scope of services, a review of staff files to validate competencies, qualifications, schedules to ensure staffing to meet the acuity levels of patient, and adequate supplies and equipment to meet the needs of patients. Prior to issuance of the amended license for the bed conversion or addition of behavioral health beds, the designated space must be approved by the DHSR Construction Section for patient occupancy.

Before expansion of services or increase in beds for the provision of behavioral health a construction plan review must be conducted along with an on-site inspection of the facility by the DHSR Construction Section. This review shall be composed of compliance with the Hospital licensure rules, Mental Health rules and National Fire Protection Association 101, 2000 edition for the Center for Medicare/Medicaid Services. Upon completion a recommendation for licensure shall be sent to the Acute and Home Care Licensure and Certification Section.

The Acute and Home Care Licensure and Certification Section in the Division of Health Service Regulation provides regulatory oversight of licensed acute and mental health hospitals. Based on the project proposed in the application, that is, new bed construction, existing bed conversion, or both, the applicant hospital shall comply with Article 5, General Statute 131E- 75, General Statute 131E-76, and Article 2, General Statute 122C – 21 as applicable to the services offered. Please refer to 10A NCAC 13B, in particularly Section .5200 Psychiatric Services.

The Construction Section is responsible for licensing and regulating health care facilities for compliance with physical plant state rules and federal life safety standards.










Applicable codes are based on the type of projects as follow:

1. Licensure rules for Hospitals: 10A NCAC 13B .6201, 6205, 6223, 6225, 6226, and 6227.

2. NCSBC, 2012 Edition for Institutional I-2 occupancy, including Table 503 for the construction types and Table 601 for the required ratings.
3. NFPA 101, 2012 Edition, Chapter 18 New Health Care Occupancies for the first type of projects that involves new addition or new construction.
4. NFPA 101, 2012 Edition, Chapter 19 Existing Health Care Occupancies for the second type of projects that involves renovation to an existing building.

The North Carolina Administrative Code is available on the Division of Health Service Regulation at <https://www2.ncdhhs.gov/dhsr/>.

Applicable requirements are specified in the following North Carolina Administrative Codes:

- Hospital: [10A NCAC 13B](#) 
- Hospital - Psychiatric: [10A NCAC 13B](#) 
- Hospital - Psychiatric: [10A NCAC 26B](#) 
- Hospital - Psychiatric: [10A NCAC 26C](#) 
- Hospital - Psychiatric: [10A NCAC 27C](#) 
- Hospital - Psychiatric: [10A NCAC 27D](#) 
- Hospital - Psychiatric: [10A NCAC 27E](#) 
- Hospital - Psychiatric: [10A NCAC 27F](#) 
- Hospital - Psychiatric: [10A NCAC 27G](#) 

## 5.1 **PROGRAMMATIC REQUIREMENTS AND PRIORITIES**

The application will identify the

- A. Number of beds to be converted;
- B. Number of beds to be constructed;
- C. Services to be provided in the converted/constructed beds;
- D. Anticipated outcomes, including but not limited to, reduced ED admissions, reduced ED wait times, reduced crisis episodes per individual served in crisis stabilization and/or inpatient settings.

The application will describe:

- E. Staffing and their credentials/qualifications needed to deliver the anticipated services;
- F. The training to be provided to the staff to ensure that services are delivered according to the service definitions, federal, and state laws and regulations;
- G. The hospital's plan and timeline for submitting an application for and attaining IVC Designation [contact DMHDDSAS for application for IVC Designation: 919-733-7011 or 919-715-2076];
- H. the specific communities which will benefit from the proposed project including counties and hospital EDs impacted;
- I. Expected referral sources and admission routes to the new resources;
- J. Description of how individuals served in the proposed hospital beds will be engaged in services and supports that will reduce the need for future acute crisis intervention.

The application will provide:



- K. Referring hospitals ED's wait times data for the most recent one-year period available for persons who were indigent, or who had Medicaid, Medicare, or other third party health insurance;
- L. the projected reduction in the ED wait times after the proposed services become operational;
- M. Estimated travel distance from the anticipated referring hospitals' EDs to psychiatric and/or substance use inpatient beds prior to and after the constructed/converted beds becoming operational, for the most recent one-year period available;

The application will include:

- N. letters of support for the hospital's application, from the following:
  - a LME-MCO, including commitment to provide referrals to the applicant for psychiatric and/or substance use inpatient care;
  - At least one ED outside of the applicant's hospital system, including commitment to provide referrals to the applicant for psychiatric and/or substance inpatient care;
- O. Written commitments, within the application, from the applicant hospital with respect to future admissions of persons to the new psychiatric and/or substance use inpatient beds:
  - admit persons into the proposed beds who are referred from outside the applicant hospital's ED and outside its parent hospital health care system;
  - ensure that the hospital will meet all of the requirements of and be approved for IVC Designation from DMHDDSAS within 90 days of its new/converted beds becoming licensed; [contact DMHDDSAS for application for IVC Designation: 919-733-7011 or 919-715-2076]
  - admit patients who have been committed involuntarily for psychiatric or substance use treatment;
  - admit patients into the proposed beds who have Medicaid, Medicare, Tricare, and other third party health care insurance, and those who are indigent.

## **5.2 CONTRACTOR RESPONSIBILITIES**

Contractor shall meet all licensing requirements and regulations for physical plant construction and modification, life safety standards, and licensure requirements for psychiatric and substance use beds.

## **5.3 PERFORMANCE STANDARDS AND EXPECTATIONS**

Complete physical plant construction and modification according to the statutes and regulations specified in the 5.1 Programmatic Requirements and Priorities

## **5.4 REPORTING REQUIREMENTS**

- A. Annually, according to reporting requirements to be developed by DMHDDSAS and DHSR.
- B. Ad hoc, as requested by DMHDDSAS and DHSR.

## **5.5 OTHER CONTRACTOR REQUIREMENTS**

N/A

## **5.6 CONTRACTOR QUALIFICATIONS AND CAPACITY**

### **A. Organization capacity and qualification**

Applicant must have a current and active license to operate a hospital in North Carolina. Applicant hospital shall have Joint Commission accreditation.

## **5.7 CONTRACTOR ENHANCEMENTS OR ADDITIONAL CONSIDERATIONS**

Additional criteria that will be considered:

1. Hospital bed conversions only (as this will allow for more psychiatric and/or substance use beds to be created);
2. hospital beds that will be in a county in which there are no existing three-way contract hospital beds;
3. the applicant hospital's Total Uninsured Uncompensated Care Costs were **greater than 7%** of the Total Hospital Cost on the most recent Annual DSH Report;  
<https://www.medicaid.gov/medicaid/financing-and-reimbursement/dsh/index.html>
4. hospital beds that will have the staffing capacity to treat one or more of the following specialized populations:
  - i. persons who need for American Society of Addiction Medicine Level 4 detoxification;
  - ii. persons who have Intellectual and/or Developmental Disabilities;
  - iii. persons who have Traumatic Brain Injury;
  - iv. children/adolescents.

## **6.0 DIVISION RESPONSIBILITIES**

DMHDDSAS will collaborate with DHSR to ensure that the hospital's bed construction/conversion project meets the intent of the funding. DMHDDSAS will serve as a liaison to report progress to members of the General Assembly, as required.

### **6.1 Performance Oversight**

DMHDDSAS and DHSR will monitor the implementation of the hospital's bed construction/conversion project to ensure that it meets the intent of the funding as described in Section **1.1 Purpose**; fulfillment of the Goals and Objectives and Outcomes and Deliverables as specified in Section **1.2 Background**; and adherence to the requirements identified in

- **5.0 Scope of Work;**
- **5.1 Programmatic Requirements and Priorities;**
- **5.2 Contractor Responsibilities;**
- **5.3 Performance Standards and Expectations;**
- **5.4 Reporting Requirements;**
- **5.6 Contractor Qualifications and Capacity, and**
- **5.7 Contractor Enhancements or Additional Considerations.**

## **7.0 TERM OF CONTRACT, OPTIONS TO EXTEND**

The proposed performance period for this contract begins March 18, 2017 and ends March 18, 2020.

## **8.0 BUDGET**

The RFA/ line item budget shall constitute the total cost to the Division for complete performance in accordance with the requirements and specifications herein, including all applicable expenses such as administrative cost. Contractor shall not invoice for any amounts not specifically allowed for in the line item budget of this RFA.

The Contractor shall use the Cost Table found in ATTACHMENT A: Line Item Budget to create the Line Item Budget and Budget Narrative. The Vendor shall not use any other tables or forms, nor modify the contents of any of the shaded cells in the Cost Table.

All costs provided in Line item budget must be firm and fixed for the duration of the contract, which could last as long as three years if the State exercises its option for one additional year.

## **9.0 INVOICING AND REIMBURSEMENT**

Upon execution of this contract, the Contractor shall submit to the Division Contract Administrator, a monthly reimbursement request for services rendered the previous month by the 10th of each month and, upon approval by the Division, receive payment within 30 days. Monthly payment shall be made based on actual expenditures made in accordance with the approved budget on file with both parties and reported on the monthly expenditure report submitted by the Contractor. If this contract is terminated, the Contractor shall complete a final accounting report and return any unearned funds to the Division within 30 days of the contract termination date. The Division shall have no obligation for payments based on expenditure reports submitted later than 30 days after termination or expiration of the contract period. All payments are contingent upon fund availability.

Payment shall be made in accordance with the contract documents as described in the scope of work.

## **10.0 THE SOLICITATION PROCESS**

The following is a general description of the process by which agencies or organizations will be selected to complete the goal or objective.

- 1) RFAs are being sent to prospective agencies and organizations.
- 2) Written questions concerning the RFA specifications will be received until the date specified on the cover sheet of this RFA. A summary of all questions and answers will be posted on the RFA web site.
- 3) Applications will be received from each agency or organization. The original must be signed and dated by an official authorized to bind the agency or organization.
- 4) All applications must be received by the funding agency not later than the date and time specified on the cover sheet of the RFA. Faxed applications will not be accepted.
- 5) At that date and time the applications from each responding agency and organization will be logged in.
- 6) At their option, the evaluators may request additional information from any or all Contractors for the purpose of clarification or to amplify the materials presented in any part of the

application. However, agencies and organizations are cautioned that the evaluators are not required to request clarification: therefore, all applications should be complete and reflect the most favorable terms available from the agency or organization.

- 7) Applications will be evaluated according to completeness, content, experience with similar projects, ability of the agency's or organization's staff, cost, etc. The award of a grant to one agency and organization does not mean that the other applications lacked merit, but that, all facts considered, the selected application was deemed to provide the best service to the State.
- 8) Agencies and organizations are cautioned that this is a request for applications, and the funding agency reserves the unqualified right to reject any and all applications when such rejections are deemed to be in the best interest of the funding agency.

## **11.0 GENERAL INFORMATION ON SUBMITTING APPLICATIONS**

### 1) Award or Rejection

All qualified applications will be evaluated and awards made to those agencies or organizations whose capabilities are deemed to be in the best interest of the funding agency. The funding agency reserves the unqualified right to reject any or all offers if determined to be in its best interest. Successful Contractors will be notified by March 3, 2017.

### 2) Decline to Offer

Any agency or organization that receives a copy of the RFA but declines to make an offer is requested to send a written "Decline to Offer" to the funding agency. Failure to respond as requested may subject the agency or organization to removal from consideration of future RFAs.

### 3) Cost of Application Preparation

Any cost incurred by an agency or organization in preparing or submitting an application is the agency's or organizations sole responsibility; the funding agency will not reimburse any agency or organization for any pre-award costs incurred.

### 4) Elaborate Applications

Elaborate applications in the form of brochures or other presentations beyond that necessary to present a complete and effective application are not desired.

### 5) Oral Explanations

The funding agency will not be bound by oral explanations or instructions given at any time during the competitive process or after awarding the grant.

### 6) Reference to Other Data

Only information that is received in response to this RFA will be evaluated; reference to information previously submitted will not suffice.

### 7) Titles

Titles and headings in this RFA and any subsequent RFA are for convenience only and shall have no binding force or effect.

### 8) Form of Application

Each application must be submitted on the form provided by the funding agency, which will become the funding agency's Performance Agreement (contract).

### 9) Exceptions

All applications are subject to the terms and conditions outlined herein. All responses will be controlled by such terms and conditions. The attachment of other terms and condition by any agency and organization may be grounds for rejection of that agency or organization's application. Funded agencies and organizations specifically agree to the conditions set forth in the Performance Agreement (contract).

### 10) Advertising

In submitting its application, agencies and organizations agree not to use the results therefrom or as part of any news release or commercial advertising without prior written approval of the funding

agency.

11) Right to Submitted Material

All responses, inquiries, or correspondence relating to or in reference to the RFA, and all other reports, charts, displays, schedules, exhibits, and other documentation submitted by the agency or organization will become the property of the funding agency when received.

12) Competitive Offer

Pursuant to the provision of G.S. 143-54, and under penalty of perjury, the signer of any application submitted in response to this RFA thereby certifies that this application has not been arrived at collusively or otherwise in violation of either Federal or North Carolina antitrust laws.

13) Agency and Organization's Representative

Each agency or organization shall submit with its application the name, address, and telephone number of the person(s) with authority to bind the agency or organization and answer questions or provide clarification concerning the application.

14) Subcontracting

Agencies and organizations may propose to subcontract portions of work provided that their applications clearly indicate the scope of the work to be subcontracted, and to whom. All information required about the prime grantee is also required for each proposed subcontractor.

15) Proprietary Information

Trade secrets or similar proprietary data which the agency or organization does not wish disclosed to other than personnel involved in the evaluation will be kept confidential to the extent permitted by NCAC TO1: 05B.1501 and G.S. 132-1.3 if identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL." Any section of the application that is to remain confidential shall also be so marked in boldface on the title page of that section.

16) Participation Encouraged

Pursuant to Article 3 and 3C, Chapter 143 of the North Carolina General Statutes and Executive Order No. 77, the funding agency invites and encourages participation in this RFA by businesses owned by minorities, women and the disabled including utilization as subcontractor(s) to perform functions under this Request for Applications.

17) Contract

The Division will issue a contract to the recipient of the grant that will include their application.

18) Federal Certifications

- i) Agencies or organizations receiving Federal funds will be required to execute Federal Certifications regarding Non-discrimination, Drug-Free Workplace, Environmental Tobacco Smoke, Debarment, Lobbying, and Lobbying Activities. A copy of the Federal Certifications is included in this RFA for your reference (see Appendix B). Federal Certifications should NOT be signed or returned with the application.

Please be advised that successful Contractors may be required to have an audit in accordance with G. S. 143-6.2 as applicable to the agency or organization's status. Also, the contract may include assurances the successful Contractor would be required to execute when signing the contract. Agencies or organizations receiving Federal funds will be required to execute a Consolidated Federal Certification form (as applicable). Private not for profit agency contracts will also include a conflict of interest policy statement.

## **12.0 APPLICATION CONTENT AND INSTRUCTIONS**

This section includes what the Contractor is required to provide the division with its application response. *The Contractor must clearly demonstrate (describe) in its proposal response* how the Contractor's Organization will meet or address the programmatic requirements described in the scope of work section of the RFA. The Contractor proposal shall include the following items in this specific order and clearly marked as such.

Whenever possible, use appendices to provide details, supplementary data, references, and information requiring in-depth analysis. These types of data, although supportive of the proposal, if included in the body of the design, could detract from its readability. Appendices provide the proposal reader with immediate access to details if and when clarification of an idea, sequence or conclusion is required. Time tables, work plans, schedules, activities, and methodologies, legal papers, personal vitae, letters of support, and endorsements are examples of appendices.

Contractors shall populate all attachments of this RFA that require the Contractor to provide information and include an authorized signature where requested. Contractor RFA responses shall include the following items and those attachments should be arranged in the following order: Number each page consecutively.

### **Cover Page with all fields completed, signed by an authorized official of the Contractor organization**

#### **A. Face Page.**

- 1) The Contractor's name and principal place of business.
- 2) The Contractor's legal status; i.e. whether the Contractor is an individual, a corporation, a general partnership, a limited partnership, a joint venture or some other legal entity. The state in which the Contractor is incorporated or organized.

#### **B. Proposal Summary. (not to exceed two pages, 12 font size)**

The summary should be prepared after the application has been developed in order to encompass all the key points necessary to communicate the objectives of the project. It is the document that becomes the cornerstone of the proposal, and the initial impression it gives will be critical to success of the venture. In many cases, the summary will be the first part of the proposal package seen by agency and very possibly could be the only part of the package that is carefully reviewed before the decision is made to consider the project any further.

#### **C. Organization Background and Qualifications: Describes the organization and its qualifications for funding (10 points) (not to exceed three pages, 12 font size)**

- 1) Mission and goal of the Organization
- 2) A brief overview of the contractor's history
- 3) Brief overview of the contractor's experience with providing psychiatric and substance use assessment or treatment or similar services (organization's past achievements and accomplishments and evidence of its impact)
- 4) Brief overview of all services provided by the Contractor within the last five years, including:
  - i) The beginning and ending dates of the contracts;
  - ii) The services provided under those contracts;
  - iii) The total number of Contractor employees assigned to service each contract;
  - iv) Whether any of those contracts were extended or renewed at the end of their initial terms;
  - v) Whether any of those contracts were terminated early for cause by either party to the contract;
  - vi) The "lessons learned" from each of those contracts; and
  - vii) The name, address, and telephone number of at least one manager in each client organization who is personally familiar with the Vendor's performance under the contract
- 5) Qualifications/background on organization's Board of Directors and Key Staff
- 6) The details of:
  - i) Any criminal convictions of any of the Contractor or any of their officers, directors, employees, agents or subcontractors of which the Contractor have knowledge or a statement that there are none;
  - ii) Any criminal investigations pending against of any of the Contractor or any of their officers, directors, employees, agents or subcontractors of which the Contractors have knowledge or a statement that there are none;
  - iii) Any regulatory sanctions levied against any of the Contractors or any of their officers, directors, employees, agents or subcontractors by any state or federal regulatory agencies within the past three years of which the Contractor s have knowledge or a statement that there are none. As used herein,

- the term “regulatory sanctions” includes the revocation or suspension of any license or certification, the levying of any monetary penalties or fines, and the issuance of any written warnings;
- iv) Any regulatory investigations pending against of any of the Contractors or any of their officers, directors, employees, agents or subcontractors by any state or federal regulatory agencies of which the Contractors have knowledge or a statement that there are none.  
Note: The Department may reject a proposal solely on the basis of this information.
  - v) Any of the Contractor’s directors, partners, proprietors, officers or employees or any of the proposed project staff are related to any DHHS employees. If such relationships exist, identify the related individuals, describe their relationships, and identify their respective employers and positions.
  - vi) Assurance that the Contractor and the proposed Contractor staff are not excluded from participation by Medicaid or the Office of the Inspector General of the United States Department of Health and Human Services.
- 7) Other major donors and summary of dollar amounts of contribution(s)

**D. Assessment of Need(s): Problem Statement. (not to exceed one page, 12 font size)**

- 1) Problem (explain why the service is necessary); include the following information:
  - (1) Letters of Support, as indicated in **5.1 Programmatic Requirements and Priorities**
  - (2) Wait times data from at least one ED that provided a Letter of Support
  - (3) Travel distances from the ED(s) to current psychiatric and/or substance use inpatient beds (that is, the existing beds, not the proposed new beds to be converted/constructed)
  - (4) Other reasons about the need for new psychiatric and/or substance use inpatient beds.
- 2) Describe what your organization is doing to address this problem
- 3) Primary State/Counties Served
- 4) Ethnicity, age, and gender of population served
- 5) Target population or who are you plan on serving
- 6) Number of beneficiaries
- 7) Eligibility requirements to receive service
- 8) Statistical facts and figures (national, state, local)
- 9) Program Website

**E. A written description of the Contractor’s approach to the project, including identification of key partners. (not to exceed two pages, 12 font size)**

Provides a comprehensive framework understanding and description of the RFA. (The Contractors Approach to the project so that the desired results can be achieved).

List Goals and Objectives of the project (describes how they will be met and the outcome of the project in measureable terms.

- 1) Goals: Note: The outcome is derived from the goal. It has the same intention but it is more specific, quantifiable and verifiable than the goals. Please be aware of how realistic your outcomes are and that the outcomes should be aware of time-restraints. Outcomes should be SMART – Specific, Measureable, Achievable, Realistic, and Time-Bound. Contractors must describe the program’s intent to maintain, change, reduce, or eliminate the problem noted in **Assessment of Need(s)** and outline the project’s goals.
- 2) Objectives: Objectives are the measureable outcomes of the project. They define your methods. Your objectives must be tangible, specific, concrete, measureable and achievable in a specified time period. Two of the objectives must address ED wait times, and reduced distances that will be traveled from EDs to new psychiatric and/or substance use beds.

**Contractors often confuse objectives with goals, which are conceptual and more abstract. For the purpose of illustration, here is the goal of a project with a subsidiary objective:**

**Goal:** Our after-school program will help children read better.

**Objective:** Our after-school remedial education program will assist 50 children in improving their reading scores by one grade level as demonstrated by standardized reading tests administered after participating in the program for six months. The goal in this case is abstract: improving reading, while the objective is much more specific. It is achievable in the short term (six months) and measurable (improving 50 children's reading scores by one grade level). Well-articulated objectives are increasingly critical to an application’ success.

**F. The Plan of Action: A description of how the Contractor will meet each of the requirements and deliverable described in the scope of work. (not to exceed five pages, 12 font size)**

The project design refers to how the project is expected to work and solve the stated problem. The section should be carefully reviewed to make sure that what is being proposed is realistic in terms of the Contractor's resources and timeframe. Suggested content narrative include:

- 1) Task Description of Project Activities, Inputs, Activities and Throughputs, Strategies and Methodologies and Schedules.
- 2) Performance Measures (Outputs and Quality Measures). Provide key measure that supports and measures the success of the project. When providing these measures please include the measure description, baseline, target, data source, collection plan and collection frequency.
- 3) Project Outcome (Describes the impact or benefit of the service on the client or customer or describes what was changed or accomplished as a result of the service. The outcome measures should be characterized as measurable, obtainable, understandable, clear, accurately reflecting the expected result, and set at a level to be attained within a specific time frame. Once the measures have been selected, it is necessary to design a way to get the information (see project evaluation) below. Expressed as a percentage and shows the qualitative consequences associated with the service)

**G. Project Implementation Plan: Work plans, timelines, schedules and transition plans for the project. (not to exceed five pages, 12 font size)**

**H. A description of how the Contractor will staff the project, including the name, resume and qualifications of each of the proposed team members, including subcontractors. (Note: This may need to go in the Appendix) (not to exceed five pages, 12 font size)**

**I. Sustainability: Steps taken to ensure future successes or continuing the project beyond the awarded period. (not to exceed one page, 12 font size)**

- a. **Must describe the financial and staffing resources that will sustain the operation of the new psychiatric and substance use beds.**
- b. **Must include the written commitments regarding future admissions to the new beds, as identified in 5.1 Programmatic Requirements and Priorities**

**J. Resolution of Challenges: An analysis of the project's risk and limitations, including how these factors will be addressed or minimized. (regulatory, environmental or other constraints) (not to exceed one page, 12 font size)**

**K. Line Item Budget and Budget Narrative: Every item that appears in the budget should be explained clearly, so the evaluator/ reviewer will understand it. The budget narrative should explain how the numbers in the budget were calculated and how each expense is related to the proposed project. The Budget Narrative is the justification of 'how' and/or 'why' a line item helps to meet the program deliverables. It is also used to determine if the cost in the contract are reasonable and permissible. (not to exceed ten pages, 12 font size)**

**Supporting documents excluded from 35 page limit above:**

- A. An organizational chart identifying the personnel who will be assigned to work on this project.
- B. Letters of support from key partners and proposed sub awardees,
- C. Applicable Terms and Conditions (select and attach the appropriate Terms and Conditions for your organization type from Appendix A).
- D. Applicable Certifications from Appendix B

Submit complete Application, including signature of authorized representative, Contract Administrator Name and email address no later than 5:00 p.m. on February 3, 2017.



## 13.0 EVALUATION CRITERIA AND SCORING

### PHASE I: INITIAL QUALIFYING CRITERIA

The applicant's proposal must meet all of the following Phase I application acceptance criteria in order to be considered for further evaluation. Any proposal receiving a "no" response to any of the following qualifying criteria shall be disqualified from consideration.

ITEM	APPLICATION ACCEPTANCE CRITERIA	RFA Section	YES	NO
1	Was the contractor's application received by the deadline specified in the RFA?	<b>Cover Page</b>		
2	Vendor proposal includes all required affirmative statements, assurances and certifications signed by the vendor's responsible representative, as described in <b>Certifications and Assurances</b> of the RFA	<b>Appendix B</b>		
3	Included in those certifications, the contractor states that it is not excluded from entering into a contract with DHHS/State due to restrictions related to the federal debarment list, etc.	<b>Appendix B</b>		
4	Vendor meets eligibility requirements as stated in <b>Eligibility Requirements</b> Section	<b>2.0</b>		
5	Vendor meets the minimum Qualification Requirements as described in <b>Contractor Qualifications and Capacity</b> Section	<b>5.6</b>		
6	Program's review of the Contractor verifies that the vendor is not excluded from contracting with DHHS/State for any unresolved finding for recovery	<b>12.0</b>		
7	Vendor is not on the IRAN Divestment List	<b>Appendix B</b>		

### PHASE II: CRITERIA FOR SCORING PROPOSAL/APPLICATIONS

Qualifying application proposals will be collectively scored by the proposal review team. All qualified applications will be evaluated and awards made based on the following criteria considered, to result in awards most advantageous to the State.

Applications will be scored on the content, quality, and completeness of the responses to the items in the scope of work and to how well each response addresses the following core factors, as described in Section **12.0 Application Content and Instructions**. DHHS will consider scores, organizational capacity, and distribution among catchment areas, and variety of quality improvement plans in determining awards. Please note that Contractors not meeting the eligibility requirements or any of the minimum or mandatory requirements as stated in Phase I will not be scored.

An additional point will be given to applications for each of the following criteria:

1. Proposals for bed conversions only (as this will allow for more psychiatric and/or substance use beds to be created);
2. proposed hospital beds are in a county in which there are no three-way contract hospital beds;
3. the applicant hospital's Total Uninsured Uncompensated Care Costs were **greater than 7%** of the Total Hospital Cost on the most recent Annual DSH Report; <https://www.medicaid.gov/medicaid/financing-and-reimbursement/dsh/index.html>
4. applicant hospital proposes to create beds that will have the staffing capacity to treat one or more of the following specialized populations:
  - i. persons who need for American Society of Addiction Medicine Level 4 detoxification;
  - ii. persons who have Intellectual and/or Developmental Disabilities;
  - iii. persons who have Traumatic Brain Injury;
  - iv. children/adolescents.

<b>Core Factors</b>	<b>Maximum Score</b>
Proposal Summary	5
Organization Background and Qualifications	10
Assessment of Needs	10
Contractor's Approach	5
Plan of Action	20
Project Implementation	20
Staff	10
Sustainability	15
Resolution of Challenges	5
Contractor Enhancements/Additional Considerations	4
<b>Total Score</b>	<b>104</b>

Please refer to **Attachment B** for the Core Factors, Evaluation Criteria and Scoring Guide that will be used by the RFA reviewers.

## **ATTACHMENT A**

### LINE ITEM BUDGET AND BUDGET NARRATIVE (SAMPLE).

(This is a simple illustration. Please modify accordingly or replace with a performance based budget)

CATEGORY	ITEM	NARRATIVE	AMOUNT
SALARY/WAGE			
FRINGE BENEFITS			
OTHER			
SUPPLIES MATERIALS			
EQUIPMENT			
TRAVEL			
RENT			
UTILITIES			
ADVERTISING			
DUES AND SUBSCRIPTONS			
STAFF DEVELOPMENT			
PROFESSIONAL SERVICES			
SUB CONTRACTORS			

**ATTACHMENT B**  
CORE FACTORS, EVALUATION CRITERIA AND SCORING GUIDE

Applications will be scored on the content, quality, and completeness of the responses to the items in the scope of work and to how well each response addresses the following core factors, as described in Section 12.0 **Application Content and Instructions**. DHHS will consider scores, organizational capacity, and distribution among catchment areas, and variety of quality improvement plans in determining awards.

Core Factors	Maximum Score
Proposal Summary	5
Organization Background and Qualifications	10
Assessment of Needs	10
Contractor's Approach	5
Plan of Action	20
Project Implementation	20
Staff	10
Sustainability	15
Resolution of Challenges	5
Contractor Enhancements/Additional Considerations	4
<b>Total Score</b>	<b>104</b>

Evaluation Criteria: Components and maximum scores

- I. Proposal Summary (maximum score: 5 points)
  - a. **Brief summary statement** for each of the following:
    - i. Assessment of Needs (possible score: 1)
    - ii. Contractor's approach (possible score: 1)
    - iii. Plan of Action (possible score: 1)
    - iv. Implementation Plan (possible score: 1)
    - v. Budget - line item subtotal (major components) amounts and total amount (possible score: 1)
  
- II. Organization Background Qualifications (maximum score: 10 points)
  - a. Mission and goals (possible score: 2)
  - b. Contractor's history (possible score: 1)
  - c. Contractor's experience with providing the proposed services or similar services (possible score: 2)
  - d. Services provided within past five years (possible score: 1)
  - e. Qualifications/background of Board of Directors and Key Staff (possible score: 1)
  - f. Criminal; Regulatory; persons related to DHHS; Not excluded from participation (possible score: 2)
  - g. Other donors (possible score: 1)
  
- III. Assessment of Needs (maximum score: 10 points)
  - a. Problem (possible score: 2)
  - b. What organization is doing to address the problem (possible score: 1)

- c. Counties anticipated to be served (possible score: 1)
  - d. Ethnicity, age, and gender of population to be served (possible score: 1)
  - e. Target population to be served (identify by inpatient needs and payer source) (possible score: 1)
  - f. Number of beneficiaries anticipated to be served annually (possible score: 1)
  - g. Eligibility requirements to receive service (possible score: 1)
  - h. Statistical facts and figures (national, state, local) (possible score: 1)
  - i. Program Website (possible score: 1)
- IV. Contractor's Approach (maximum score: 5 points)
- a. Description of comprehensive framework (possible score: 1)
  - b. Description of goals and objectives (Specific, Measurable, Achievable, Realistic, Time-Bound) (possible score: 4)
- V. Plan of Action (maximum score: 20 points)
- a. Task Description (possible score: 4)
  - b. Performance Measures (possible score: 8)
  - c. Project Outcome (possible score: 8)
- VI. Project Implementation (maximum score: 20 points)
- a. Work plans (possible score: 5)
  - b. Timelines (possible score: 5)
  - c. Schedules (possible score: 5)
  - d. Transition plans (possible score: 5)
- VII. Staff (maximum score: 10 points)
- a. Descriptions of staffing for the conversion/construction activities (possible score: 10)
- VIII. Sustainability (maximum score: 15 points)
- a. Financial sources (possible score: 5)
  - b. Descriptions of staffing for the provision of psychiatric and substance use inpatient care (possible score: 5)
  - c. Written commitments regarding admissions (possible score: 5)
- IX. Resolution of Challenges (maximum score: 5 points)
- a. Analysis of risks and limitations (possible score: 2)
  - b. How will risks/limitations be addressed or minimized (possible score: 3)
- X. Contractor Enhancements/Additional Considerations (maximum score: 4 points)
- a. Bed conversions only (possible score: 1)
  - b. No existing Three-Way Contract beds in county (possible score: 1)
  - c. Total Uninsured Uncompensated Care > 7% (possible score: 1)
  - d. Beds and staff will serve Specialized population(s) (possible score: 1)

## **APPENDIX A**

### **TERMS AND CONDITIONS**

1. [HealthCare Providers](#)
2. [Private Sector](#)
3. [Local Government \(Public Sector\)](#)
4. [Other State Departments](#)
5. [Duke](#)
6. [Private University](#)
7. [Master Agreement \(UNC Systems\) incorporated by reference](#)

Select the appropriate terms and conditions for the Contractor organization and attach to the application as indicated in Section 12: Application Content and Instructions. These terms are a part of the award document for selected applications.

## GENERAL TERMS AND CONDITIONS

### Relationships of the Parties

**Independent Contractor:** The Contractor is and shall be deemed to be an independent contractor in the performance of this contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Division.

**Subcontracting:** The Contractor shall not subcontract any of the work contemplated under this contract without prior written approval from the Division. Any approved subcontract shall be subject to all conditions of this contract. Only the subcontractors specified in the contract documents are to be considered approved upon award of the contract. The Division shall not be obligated to pay for any work performed by any unapproved subcontractor. The Contractor shall be responsible for the performance of all of its subcontractors.

**Assignment:** No assignment of the Contractor's obligations or the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may: (a) Forward the Contractor's payment check directly to any person or entity designated by the Contractor, or (b) Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check. In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.

**Beneficiaries:** Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Division and the named Contractor. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Division and Contractor that any such person or entity, other than the Division or the Contractor, receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

### Services

**Service Standards:** During the term of the Agreement the Contractor and its employees, agents, and subcontractors shall provide high quality professional services consistent with the standards of practice in the geographic area and with all applicable federal, state, and local laws, rules and regulations, all applicable ethical standards, and standards established by applicable accrediting agencies. The Contractor and its employees, agents and subcontractors shall exercise independent professional judgment in the treatment and care of patients.

**Records:** During the term of this Agreement, the Contractor and its employees, agents, and subcontractors shall maintain complete and professionally adequate medical records consistent with the standards of practice in the geographic area and their respective health care professions. The Contractor and its employees, agents, and subcontractors shall prepare all reports, notes, forms, claims and correspondence that are necessary and appropriate to their professional services.

**Licenses:** During the term of this Agreement, the Contractor and its employees, agents, and subcontractors shall hold, current facility and occupational licenses and certifications at the levels required to practice their professions and to provide the contracted services in the State of North Carolina.

### Indemnity and Insurance

**Indemnification:** The Contractor agrees to indemnify and hold harmless the Division, the State of North Carolina, and any of their officers, agents and employees, from any claims of third parties arising out of any act or omission of the Contractor or its employees, agents, or subcontractors in connection with the performance of this contract.

- (a) **Insurance:** During the term of the contract, the Contractor shall provide, at its sole cost and expense, commercial insurance of such types and with such terms and limits as may be reasonably associated with the contract. At a minimum, the Contractor shall provide and maintain the following coverage and limits:
- (1) **Professional Liability Insurance:** The Contractor shall ensure that the Contractor and its employees, agents, and subcontractors each maintain through an insurance company or through a program of self-funded insurance, professional liability insurance with limits of at least \$1,000,000 per occurrence and at least \$3,000,000 in the aggregate.

- (2) **Worker's Compensation Insurance:** The Contractor shall provide and maintain worker's compensation insurance, as required by the laws of the states in which its employees work, covering all of the Contractor's employees who are engaged in any work under the contract.
- (3) **Employer's Liability Insurance:** The Contractor shall provide employer's liability insurance, with minimum limits of \$500,000.00, covering all of the Contractor's employees who are engaged in any work under the contract.
- (4) **Commercial General Liability Insurance:** The Contractor shall provide commercial general liability insurance on a comprehensive broad form on an occurrence basis with a minimum combined single limit of \$1,000,000.00 for each occurrence.
- (5) **Automobile Liability Insurance:** The Contractor shall provide automobile liability insurance with a combined single limit of \$500,000.00 for bodily injury and property damage; a limit of \$500,000.00 for uninsured/under insured motorist coverage; and a limit of \$2,000.00 for medical payment coverage. The Contractor shall provide this insurance for all automobiles that are:
  - (A) owned by the Contractor and used in the performance of this contract;
  - (B) hired by the Contractor and used in the performance of this contract; and
  - (C) owned by Contractor's employees and used in performance of this contract ("non-owned vehicle insurance"). Non-owned vehicle insurance protects employers when employees use their personal vehicles for work purposes. Non-owned vehicle insurance supplements, but does not replace, the car-owner's liability insurance. The Contractor is not required to provide and maintain automobile liability insurance on any vehicle – owned, hired, or non-owned -- unless the vehicle is used in the performance of this contract.
- (b) The insurance coverage minimums specified in subparagraph (a) are exclusive of defense costs.
- (c) The Contractor understands and agrees that the insurance coverage minimums specified in subparagraph (a) are not limits, or caps, on the Contractor's liability or obligations under this contract.
- (d) The Contractor may obtain a waiver of any one or more of the requirements in subparagraph (a) by demonstrating that it has insurance that provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The Division shall be the sole judge of whether such a waiver should be granted.

- (e) The Contractor may obtain a waiver of any one or more of the requirements in paragraph (a) by demonstrating that it is self-insured and that its self-insurance provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The Division shall be the sole judge of whether such a waiver should be granted.
- (f) Providing and maintaining the types and amounts of insurance or self-insurance specified in this paragraph is a material obligation of the Contractor and is of the essence of this contract.
- (g) The Contractor shall only obtain insurance from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in the State of North Carolina. All such insurance shall meet all laws of the State of North Carolina.
- (h) The Contractor shall comply at all times with all lawful terms and conditions of its insurance policies and all lawful requirements of its insurer.
- (i) The Contractor shall require its subcontractors to comply with the requirements of this paragraph.
- (j) The Contractor shall demonstrate its compliance with the requirements of this paragraph by submitting certificates of insurance, if requested, to the Division before the Contractor begins work under this contract.

#### **Default and Termination**

**Termination Without Cause:** The Division may terminate this contract without cause by giving **30 days written notice** to the Contractor. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Division, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made.

**Termination for Cause:** If, through any cause, the Contractor shall fail to fulfill its obligations under this contract in a timely and proper manner, the Division shall have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Division, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Contractor shall not be relieved of liability to the Division for damages sustained by the Division by virtue of the Contractor's breach of this agreement, and the Division may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Division from such breach can be determined. In case of default by the



Contractor, without limiting any other remedies for breach available to it, the Division may procure the contract services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The filing of a petition for bankruptcy by the Contractor shall be an act of default under this contract.

**Waiver of Default:** Waiver by the Division of any default or breach in compliance with the terms of this contract by the Contractor shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this contract unless stated to be such in writing, signed by an authorized representative of the Department and the Contractor and attached to the contract.

**Availability of Funds:** The parties to this contract agree and understand that the payment of the sums specified in this contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Division.

**Force Majeure:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

**Survival of Promises:** All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

### Compliance with Applicable Laws

**Compliance with Laws:** The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

**Equal Employment Opportunity:** The Contractor shall comply with all federal and State laws relating to equal employment opportunity.

**Health Insurance Portability and Accountability Act (HIPAA):** The Contractor agrees that, if the Division determines that some or all of the activities within the scope of this contract are subject to the Health Insurance Portability and Accountability Act of 1996, P.L. 104-91, as amended ("HIPAA"), or its implementing regulations, it will comply with the HIPAA requirements and will execute such agreements and practices as the Division may require to ensure compliance.

### Confidentiality

**Confidentiality:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Division. The parties specifically agree that all medical and other patient records shall be treated as confidential so as to comply with all state and federal laws and regulations regarding confidentiality of such records. These confidentiality obligations shall not terminate with the termination of this Agreement.

**Data Security:** The Contractor shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations, and rules.

**Duty to Report:** The Contractor shall report a suspected or confirmed security breach to the Division's Contract Administrator within twenty-four (24) hours after the breach is first discovered, provided that the Contractor shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the breach is first discovered. During the performance of this contract, the contractor is to notify the Division contract administrator of any contact by the federal Office for Civil Rights (OCR) received by the contractor.

**Cost Borne by Contractor:** If any applicable federal, state, or local law, regulation, or rule requires the Division or the Contractor to give affected persons written notice of a security breach arising out of the Contractor's performance under this contract, the Contractor shall bear the cost of the notice.

### Oversight

**Access to Persons and Records:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

**Record Retention:** Records shall not be destroyed, purged or disposed of without the express written consent of the Division. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to federal policy and regulations, record retention may be longer than five years. Records must be retained for a period of

three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, 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 five-year period described above, whichever is later. The record retention period for Temporary Assistance for Needy Families (TANF) and MEDICAID and Medical Assistance grants and programs must be retained for a minimum of ten years.

**Government Review:** To the extent required by applicable law and pursuant to written requests from any appropriate governmental authority, Contractor and the Division shall make available to such appropriate governmental authority this Agreement and any books, records, documents and other records that are necessary to certify the nature and extent of the services provided and the cost claimed for services rendered pursuant to this Agreement or so as to otherwise comply with the requirements of any lawful agreement between the party and such governmental authority.

### Miscellaneous

**Choice of Law:** The validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties to this contract, are governed by the laws of North Carolina. The Contractor, by signing this contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

**Amendment:** This contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Division and the Contractor. The Purchase and Contract Divisions of the NC Department of Administration and the NC Department of Health and Human Services shall give prior approval to any amendment to a contract awarded through those offices.

**Severability:** In the event that a court of competent jurisdiction holds that a provision or requirement of this contract violates any applicable law, each such provision

or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this contract shall remain in full force and effect.

**Headings:** The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

**Gender and Number:** Masculine pronouns shall be read to include feminine pronouns and the singular of any word or phrase shall be read to include the plural and vice versa.

**Time of the Essence:** Time is of the essence in the performance of this contract.

**Key Personnel:** The Contractor shall not replace any of the key personnel assigned to the performance of this contract without the prior written approval of the Division. The term "key personnel" includes any and all persons identified as such in the contract documents and any other persons subsequently identified as key personnel by the written agreement of the parties.

**Care of Property:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this contract and will reimburse the Division for loss of, or damage to, such property. At the termination of this contract, the Contractor shall contact the Division for instructions as to the disposition of such property and shall comply with these instructions.

**Travel Expenses:** Reimbursement to the Contractor for travel mileage, meals, lodging and other travel expenses incurred in the performance of this contract shall not exceed the rates published in the applicable State rules. International travel shall not be reimbursed under this contract.

**Sales/Use Tax Refunds:** If eligible, the Contractor and all subcontractors shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

**Advertising:** The Contractor shall not use the award of this contract as a part of any news release or commercial advertising.

## GENERAL TERMS AND CONDITIONS

### Relationships of the Parties

**Independent Contractor:** The Contractor is and shall be deemed to be an independent contractor in the performance of this contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Division.

**Subcontracting:** The Contractor shall not subcontract any of the work contemplated under this contract without prior written approval from the Division. Any approved subcontract shall be subject to all conditions of this contract. Only the subcontractors specified in the contract documents are to be considered approved upon award of the contract. The Division shall not be obligated to pay for any work performed by any unapproved subcontractor. The Contractor shall be responsible for the performance of all of its subcontractors.

**Assignment:** No assignment of the Contractor's obligations or the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may: (a) Forward the Contractor's payment check directly to any person or entity designated by the Contractor; or (b) Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check. In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.

**Beneficiaries:** Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Division and the named Contractor. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Division and Contractor that any such person or entity, other than the Division or the Contractor, receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

### Indemnity and Insurance

**Indemnification:** The Contractor agrees to indemnify and hold harmless the Division, the State of North Carolina, and any of their officers, agents and employees, from any claims of third parties arising out of any act or

omission of the Contractor in connection with the performance of this contract.

**Insurance:** (a) During the term of the contract, the Contractor shall provide, at its sole cost and expense, commercial insurance of such types and with such terms and limits as may be reasonably associated with the contract. At a minimum, the Contractor shall provide and maintain the following coverage and limits:

(6) **Worker's Compensation Insurance:** The Contractor shall provide and maintain worker's compensation insurance, as required by the laws of the states in which its employees work, covering all of the Contractor's employees who are engaged in any work under the contract.

(7) **Employer's Liability Insurance:** The Contractor shall provide employer's liability insurance, with minimum limits of \$500,000.00, covering all of the Contractor's employees who are engaged in any work under the contract.

(8) **Commercial General Liability Insurance:** The Contractor shall provide commercial general liability insurance on a comprehensive broad form on an occurrence basis with a minimum combined single limit of \$1,000,000.00 for each occurrence.

(9) **Automobile Liability Insurance:** The Contractor shall provide automobile liability insurance with a combined single limit of \$500,000.00 for bodily injury and property damage; a limit of \$500,000.00 for uninsured/under insured motorist coverage; and a limit of \$2,000.00 for medical payment coverage. The Contractor shall provide this insurance for all automobiles that are:

- (A) owned by the Contractor and used in the performance of this contract;
- (B) hired by the Contractor and used in the performance of this contract; and
- (C) owned by Contractor's employees and used in performance of this contract ("non-owned vehicle insurance"). Non-owned vehicle insurance protects employers when employees use their personal vehicles for work purposes. Non-owned vehicle insurance supplements, but does not replace, the car-owner's liability insurance.

The Contractor is not required to provide and maintain automobile liability insurance on any vehicle – owned, hired, or non-owned -- unless the vehicle is used in the performance of this contract.

- (b) The insurance coverage minimums specified in subparagraph (a) are exclusive of defense costs.
- (c) The Contractor understands and agrees that the insurance coverage minimums specified in subparagraph (a) are not limits, or caps, on the Contractor's liability or obligations under this contract.
- (d) The Contractor may obtain a waiver of any one or more of the requirements in subparagraph (a) by

demonstrating that it has insurance that provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The Division shall be the sole judge of whether such a waiver should be granted.

- (e) The Contractor may obtain a waiver of any one or more of the requirements in paragraph (a) by demonstrating that it is self-insured and that its self-insurance provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The Division shall be the sole judge of whether such a waiver should be granted.
- (f) Providing and maintaining the types and amounts of insurance or self-insurance specified in this paragraph is a material obligation of the Contractor and is of the essence of this contract.
- (g) The Contractor shall only obtain insurance from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in the State of North Carolina. All such insurance shall meet all laws of the State of North Carolina.
- (h) The Contractor shall comply at all times with all lawful terms and conditions of its insurance policies and all lawful requirements of its insurer.
- (i) The Contractor shall require its subcontractors to comply with the requirements of this paragraph.
- (j) The Contractor shall demonstrate its compliance with the requirements of this paragraph by submitting certificates of insurance, if requested, to the Division before the Contractor begins work under this contract.

### **Default and Termination**

**Termination Without Cause:** The Division may terminate this contract without cause by giving 30 days written notice to the Contractor.

**Termination for Cause:** If, through any cause, the Contractor shall fail to fulfill its obligations under this contract in a timely and proper manner, the Division shall have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Division, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Contractor shall not be relieved of liability to the Division for damages sustained by the Division by virtue of the Contractor's breach of this agreement, and the Division may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Division from such breach can be determined. In case of default by the Contractor, without limiting any other remedies for breach available to it, the Division may procure the contract services from other sources and hold the Contractor

responsible for any excess cost occasioned thereby. The filing of a petition for bankruptcy by the Contractor shall be an act of default under this contract.

**Waiver of Default:** Waiver by the Division of any default or breach in compliance with the terms of this contract by the Contractor shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this contract unless stated to be such in writing, signed by an authorized representative of the Department and the Contractor and attached to the contract.

**Availability of Funds:** The parties to this contract agree and understand that the payment of the sums specified in this contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Division.

**Force Majeure:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

**Survival of Promises:** All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

### **Intellectual Property Rights**

**Copyrights and Ownership of Deliverables:** All deliverable items produced pursuant to this contract are the exclusive property of the Division. The Contractor shall not assert a claim of copyright or other property interest in such deliverables.

**Federal Intellectual Property Bankruptcy Protection Act:** The Parties agree that the Division shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365 (n) and any amendments thereto.

### **Compliance with Applicable Laws**

**Compliance with Laws:** The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

**Equal Employment Opportunity:** The Contractor shall comply with all federal and State laws relating to equal employment opportunity.

**Health Insurance Portability and Accountability Act (HIPAA):** The Contractor agrees that, if the Division determines that some or all of the activities within the scope of this contract are subject to the Health Insurance Portability and Accountability Act of 1996, P.L. 104-91, as amended (“HIPAA”), or its implementing regulations, it will comply with the HIPAA requirements and will execute such agreements and practices as the Division may require to ensure compliance.

### **Confidentiality**

**Confidentiality:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Division. The Contractor acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this contract.

**Data Security:** The Contractor shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations, and rules.

**Duty to Report:** The Contractor shall report a suspected or confirmed security breach to the Division’s Contract Administrator within twenty-four (24) hours after the breach is first discovered, provided that the Contractor shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the breach is first discovered. During the performance of this contract, the contractor is to notify the Division contract administrator of any contact by the federal Office for Civil Rights (OCR) received by the contractor.

**Cost Borne by Contractor:** If any applicable federal, state, or local law, regulation, or rule requires the Division or the Contractor to give affected persons written notice of a security breach arising out of the Contractor’s performance under this contract, the Contractor shall bear the cost of the notice.

### **Oversight**

**Access to Persons and Records:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

**Record Retention:** Records shall not be destroyed, purged or disposed of without the express written consent of the Division. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to federal policy and regulations, record retention may be longer than five years. Records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, 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 five-year period described above, whichever is later. The record retention period for Temporary Assistance for Needy Families (TANF) and MEDICAID and Medical Assistance grants and programs must be retained for a minimum of ten years.

### **Warranties and Certifications**

**Date and Time Warranty:** The Contractor warrants that the product(s) and service(s) furnished pursuant to this contract (“product” includes, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) that perform any date and/or time data recognition function, calculation, or sequencing will support a four digit year format and will provide accurate date/time data and leap year calculations. This warranty shall survive the termination or expiration of this contract.

**Certification Regarding Collection of Taxes:** G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors that meet one of the conditions of G.S. 105-164.8(b) and yet refuse to collect use taxes on sales of tangible personal property to purchasers in North Carolina. The conditions include: (a) maintenance of a retail establishment or office; (b) presence of representatives in the State that solicit sales or transact business on behalf of the vendor; and (c) systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. The Contractor certifies that it and all of its affiliates (if any) collect all required taxes.

### **Miscellaneous**

**Choice of Law:** The validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties to this contract, are governed by the laws of North Carolina. The Contractor, by signing this contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina

and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

**Amendment:** This contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Division and the Contractor. The Purchase and Contract Divisions of the NC Department of Administration and the NC Department of Health and Human Services shall give prior approval to any amendment to a contract awarded through those offices.

**Severability:** In the event that a court of competent jurisdiction holds that a provision or requirement of this contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this contract shall remain in full force and effect.

**Headings:** The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

**Gender and Number:** Masculine pronouns shall be read to include feminine pronouns and the singular of any word or phrase shall be read to include the plural and vice versa.

**Time of the Essence:** Time is of the essence in the performance of this contract.

**Key Personnel:** The Contractor shall not replace any of the key personnel assigned to the performance of this contract without the prior written approval of the Division. The term "key personnel" includes any and all persons identified by as such in the contract documents and any other persons subsequently identified as key personnel by the written agreement of the parties.

**Care of Property:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this contract and will reimburse the Division for loss of, or damage to, such property. At the termination of this contract, the Contractor shall contact the Division for instructions as to the disposition of such property and shall comply with these instructions.

**Travel Expenses:** Reimbursement to the Contractor for travel mileage, meals, lodging and other travel expenses incurred in the performance of this contract shall not exceed the rates published in the applicable State rules. International travel shall not be reimbursed under this contract.

**Sales/Use Tax Refunds:** If eligible, the Contractor and all subcontractors shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

**Advertising:** The Contractor shall not use the award of this contract as a part of any news release or commercial advertising.

## GENERAL TERMS AND CONDITIONS

### Relationships of the Parties

**Independent Contractor:** The Contractor is and shall be deemed to be an independent contractor in the performance of this contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Division.

**Subcontracting:** The Contractor shall not subcontract any of the work contemplated under this contract without prior written approval from the Division. Any approved subcontract shall be subject to all conditions of this contract. Only the subcontractors specified in the contract documents are to be considered approved upon award of the contract. The Division shall not be obligated to pay for any work performed by any unapproved subcontractor. The Contractor shall be responsible for the performance of all of its subcontractors.

**Assignment:** No assignment of the Contractor's obligations or the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may: (a) Forward the Contractor's payment check directly to any person or entity designated by the Contractor, or (b) Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check. In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.

**Beneficiaries:** Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Division and the named Contractor. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Division and Contractor that any such person or entity, other than the Division or the Contractor, receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

### Indemnity and Insurance

**Indemnification:** The Contractor agrees to indemnify and hold harmless the Division, the State of North Carolina, and any of their officers, agents and employees, from any claims of third parties arising out of any act or

omission of the Contractor in connection with the performance of this contract to the extent permitted by law.

### Default and Termination

**Termination Without Cause:** The Division may terminate this contract without cause by giving 30 days written notice to the Contractor.

**Termination for Cause:** If, through any cause, the Contractor shall fail to fulfill its obligations under this contract in a timely and proper manner, the Division shall have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Division, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Contractor shall not be relieved of liability to the Division for damages sustained by the Division by virtue of the Contractor's breach of this agreement, and the Division may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Division from such breach can be determined. In case of default by the Contractor, without limiting any other remedies for breach available to it, the Division may procure the contract services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The filing of a petition for bankruptcy by the Contractor shall be an act of default under this contract.

**Waiver of Default:** Waiver by the Division of any default or breach in compliance with the terms of this contract by the Contractor shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this contract unless stated to be such in writing, signed by an authorized representative of the Department and the Contractor and attached to the contract.

**Availability of Funds:** The parties to this contract agree and understand that the payment of the sums specified in this contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Division.

**Force Majeure:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

**Survival of Promises:** All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

### **Intellectual Property Rights**

**Copyrights and Ownership of Deliverables:** All deliverable items produced pursuant to this contract are the exclusive property of the Division. The Contractor shall not assert a claim of copyright or other property interest in such deliverables.

### **Compliance with Applicable Laws**

**Compliance with Laws:** The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

**Equal Employment Opportunity:** The Contractor shall comply with all federal and State laws relating to equal employment opportunity.

**Health Insurance Portability and Accountability Act (HIPAA):** The Contractor agrees that, if the Division determines that some or all of the activities within the scope of this contract are subject to the Health Insurance Portability and Accountability Act of 1996, P.L. 104-91, as amended ("HIPAA"), or its implementing regulations, it will comply with the HIPAA requirements and will execute such agreements and practices as the Division may require to ensure compliance.

### **Confidentiality**

**Confidentiality:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Division. The Contractor acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this contract.

**Data Security:** The Contractor shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations, and rules.

**Duty to Report:** The Contractor shall report a suspected or confirmed security breach to the Division's Contract Administrator within twenty-four (24) hours after the breach is first discovered, provided that the Contractor

shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the breach is first discovered. During the performance of this contract, the contractor is to notify the Division contract administrator of any contact by the federal Office for Civil Rights (OCR) received by the contractor.

**Cost Borne by Contractor:** If any applicable federal, state, or local law, regulation, or rule requires the Division or the Contractor to give affected persons written notice of a security breach arising out of the Contractor's performance under this contract, the Contractor shall bear the cost of the notice.

### **Oversight**

**Access to Persons and Records:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

**Record Retention:** Records shall not be destroyed, purged or disposed of without the express written consent of the Division. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to Federal policy and regulations, record retention may be longer than five years. Records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, 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 five-year period described above, whichever is later. The record retention period for Temporary Assistance for Needy Families (TANF) and MEDICAID and Medical Assistance grants and programs must be retained for a minimum of ten years.



## Miscellaneous

**Choice of Law:** The validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties to this contract, are governed by the laws of North Carolina. The Contractor, by signing this contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

**Amendment:** This contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Division and the Contractor. The Purchase and Contract Divisions of the NC Department of Administration and the NC Department of Health and Human Services shall give prior approval to any amendment to a contract awarded through those offices.

**Severability:** In the event that a court of competent jurisdiction holds that a provision or requirement of this contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this contract shall remain in full force and effect.

**Headings:** The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

**Gender and Number:** Masculine pronouns shall be read to include feminine pronouns and the singular of any word

or phrase shall be read to include the plural and vice versa.

**Time of the Essence:** Time is of the essence in the performance of this contract.

**Key Personnel:** The Contractor shall not replace any of the key personnel assigned to the performance of this contract without the prior written approval of the Division. The term "key personnel" includes any and all persons identified as such in the contract documents and any other persons subsequently identified as key personnel by the written agreement of the parties.

**Care of Property:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this contract and will reimburse the Division for loss of, or damage to, such property. At the termination of this contract, the Contractor shall contact the Division for instructions as to the disposition of such property and shall comply with these instructions.

**Travel Expenses:** Reimbursement to the Contractor for travel mileage, meals, lodging and other travel expenses incurred in the performance of this contract shall not exceed the rates published in the applicable State rules or approved local government travel policy. International travel shall not be reimbursed under this contract.

**Sales/Use Tax Refunds:** If eligible, the Contractor and all subcontractors shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

**Advertising:** The Contractor shall not use the award of this contract as a part of any news release or commercial advertising.

## GENERAL TERMS AND CONDITIONS

### Relationships of the Parties

**Subcontracting:** The Contractor shall not subcontract any of the work contemplated under this contract without prior written approval from the Division. Any approved subcontract shall be subject to all conditions of this contract. The Contractor shall be responsible for the performance of all of its subcontractors.

**Beneficiaries:** Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Division and the named Contractor. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Division and Contractor that any such person or entity, other than the Division or the Contractor, receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

### Termination

**Termination:** The Division may terminate this contract without cause by giving **30 days written notice** to the Contractor. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Division, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made.

**Availability of Funds:** The parties to this contract agree and understand that the payment of the sums specified in this contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Division.

### Compliance with Applicable Laws

**Compliance with Laws:** The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

**Equal Employment Opportunity:** The Contractor shall comply with all federal and State laws relating to equal employment opportunity.

**Health Insurance Portability and Accountability Act (HIPAA):** The Contractor agrees that, if the Division determines that some or all of the activities within the scope of this contract are subject to the Health Insurance

Portability and Accountability Act of 1996, P.L. 104-91, as amended ("HIPAA"), or its implementing regulations, it will comply with the HIPAA requirements and will execute such agreements and practices as the Division may require to ensure compliance.

### Confidentiality

**Confidentiality:** Any medical records, personnel information or other items exempt from the NC Public Records Act or otherwise protected by law from disclosure given to the Contractor under this contract shall be kept confidential and not divulged or made available to any individual or organization without the prior written approval of the Division.

**Data Security:** The Contractor shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations, and rules.

**Duty to Report:** The Contractor shall report a suspected or confirmed security breach to the Division's Contract Administrator within twenty-four (24) hours after the breach is first discovered, provided that the Contractor shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the breach is first discovered. During the performance of this contract, the contractor is to notify the Division contract administrator of any contact by the federal Office for Civil Rights (OCR) received by the contractor.

**Cost Borne by Contractor:** If any applicable federal, state, or local law, regulation, or rule requires the Division or the Contractor to give affected persons written notice of a security breach arising out of the Contractor's performance under this contract, the Contractor shall bear the cost of the notice.

### Oversight

**Access to Persons and Records:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

**Record Retention:** Records shall not be destroyed, purged or disposed of without the express written consent of the Division. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to federal

policy and regulations, record retention may be longer than five years. Records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, 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 five-year period described above, whichever is later. The record retention period for Temporary Assistance for Needy Families (TANF) and MEDICAID and Medical Assistance grants and programs must be retained for a minimum of ten years.

### **Miscellaneous**

**Amendment:** This contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Division and the Contractor. The Purchase and Contract Divisions of the NC Department of Administration and the NC Department of Health and Human Services shall give prior approval to any amendment to a contract awarded through those offices.

**Severability:** In the event that a court of competent jurisdiction holds that a provision or requirement of this contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this contract shall remain in full force and effect.

**Headings:** The Section and Paragraph headings in these General Terms and Conditions are not material parts of

the agreement and should not be used to construe the meaning thereof.

**Gender and Number:** Masculine pronouns shall be read to include feminine pronouns and the singular of any word or phrase shall be read to include the plural and vice versa.

**Time of the Essence:** Time is of the essence in the performance of this contract.

**Key Personnel:** The Contractor shall not replace any of the key personnel assigned to the performance of this contract without the prior written approval of the Division. The term "key personnel" includes any and all persons identified as such in the contract documents and any other persons subsequently identified as key personnel by the written agreement of the parties.

**Care of Property:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this contract and will reimburse the Division for loss of, or damage to, such property. At the termination of this contract, the Contractor shall contact the Division for instructions as to the disposition of such property and shall comply with these instructions.

**Travel Expenses:** Reimbursement to the Contractor for travel mileage, meals, lodging and other travel expenses incurred in the performance of this contract shall not exceed the rates published in the applicable State rules. International travel shall not be reimbursed under this contract.

## GENERAL TERMS AND CONDITIONS

### Relationships of the Parties

**Independent Contractor:** The Contractor is and shall be deemed to be an independent contractor in the performance of this contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Division.

**Subcontracting:** The Contractor shall not subcontract any of the work contemplated under this contract without prior written approval from the Division. Any approved subcontract shall be subject to all conditions of this contract. Only the subcontractors specified in the contract documents are to be considered approved upon award of the contract. The Division shall not be obligated to pay for any work performed by any unapproved subcontractor. The Contractor shall be responsible for the performance of all of its subcontractors.

**Assignment:** No assignment of the Contractor's obligations or the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may: (a) Forward the Contractor's payment check directly to any person or entity designated by the Contractor, or (b) Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check. In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.

**Beneficiaries:** Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Division and the named Contractor. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Division and Contractor that any such person or entity, other than the Division or the Contractor, receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

### Services

**Service Standards:** The Contractor shall provide high quality services consistent with the standard of practice in the geographic area and with all applicable federal, state, and local laws, rules and regulations, all applicable ethical standards, and standards established by applicable accrediting agencies. The Contractor shall exercise independent professional judgment in the treatment and care of patients.

**Records:** The Contractor shall maintain complete and professionally adequate medical records consistent with the standards of practice and the profession. The Contractor shall prepare all reports, notes, forms, claims and correspondence that are necessary and appropriate to the Contractor's provision of professional services.

**Licenses:** During the term of this Agreement, the Contractor shall hold, a current license at the level required to practice the Contractor's profession and provide the contracted services in the State of North Carolina.

### Indemnity and Insurance

**Indemnification:** The Division, the State of North Carolina and Contractor agree to each be solely responsible for their own acts or omissions in the performance of each of their individual duties hereunder, and shall be financially and legally responsible for all liabilities, costs, damages, expenses and attorney fees resulting from, or attributable to any and all of their individual acts or omissions to the extent allowable by law.

- (k) **Insurance:** During the term of the contract, the Contractor shall provide, at its sole cost and expense, commercial insurance of such types and with such terms and limits as may be reasonably associated with the contract. At a minimum, the Contractor shall provide and maintain the following coverage and limits:
- (10) **Professional Liability:** The Contractor shall provide and maintain, through an insurance company or through a program of self-funded insurance, professional liability insurance for itself with limits of at least \$1,000,000 per occurrence and at least \$3,000,000 in the aggregate.
  - (11) **Worker's Compensation Insurance:** The Contractor shall provide and maintain worker's compensation insurance, as required by the laws of the states in which its employees work, covering all of the Contractor's employees who are engaged in any work under the contract.
  - (12) **Employer's Liability Insurance:** The Contractor shall provide employer's liability insurance, with minimum limits of

\$500,000.00, covering all of the Contractor's employees who are engaged in any work under the contract.

(13) **Commercial General Liability Insurance or A Program of Self Insurance:**

The Contractor shall provide commercial general liability insurance on a comprehensive broad form on an occurrence basis with a minimum combined single limit of \$1,000,000.00 for each occurrence.

(14) **Automobile Liability Insurance or A Program of Self Insurance:**

The Contractor shall provide automobile liability insurance with a combined single limit of \$500,000.00 for bodily injury and property damage. The Contractor shall provide this insurance for all automobiles that are:

(A) owned by the Contractor and used in the performance of this contract;

(B) hired by the Contractor and used in the performance of this contract; and

(C) owned by Contractor's employees and used in performance of this contract ("non-owned vehicle insurance"). Non-owned vehicle insurance protects employers when employees use their personal vehicles for work purposes. Non-owned vehicle insurance supplements, but does not replace, the car-owner's liability insurance.

The Contractor is not required to provide and maintain automobile liability insurance on any vehicle – owned, hired, or non-owned -- unless the vehicle is used in the performance of this contract.

(l) The Contractor understands and agrees that the insurance coverage minimums specified in subparagraph (a) are not limits, or caps, on the Contractor's liability or obligations under this contract.

(m) The Contractor may obtain a waiver of any one or more of the requirements in subparagraph (a) by demonstrating that it has insurance that provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The Division shall be the sole judge of whether such a waiver should be granted.

(n) The Contractor may obtain a waiver of any one or more of the requirements in paragraph (a) by demonstrating that it is self-insured and that its self-insurance provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The Division shall be the sole judge of whether such a waiver should be granted.

(o) Providing and maintaining the types and amounts of insurance or self-insurance specified in this paragraph is a material obligation of the Contractor and is of the essence of this contract.

(p) With the exception of programs of self insurance, the Contractor shall only obtain insurance from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in the State of North Carolina. All such insurance shall meet all laws of the State of North Carolina.

(q) The Contractor shall comply at all times with all lawful terms and conditions of its insurance policies and all lawful requirements of its insurer.

(r) The Contractor shall require its subcontractors to comply with the requirements of this paragraph.

(s) The Contractor shall demonstrate its compliance with the requirements of this paragraph by submitting certificates of insurance, if requested, to the Division before the Contractor begins work under this contract.

### Default and Termination

**Termination Without Cause:** The Division may terminate this contract without cause by giving **30 days written notice** to the Contractor. Contractor may terminate this contract without cause upon 90 days prior written notice to the Division. In either event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Division, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made.

**Termination for Cause:** Either party may terminate this Agreement for any material breach of the Agreement provided the breaching party is given written notice of the breach and 30 days from receipt of such notice to correct the breaching conditions as described in the notice. If, the Contractor should fail to fulfill its obligations under this contract in a timely and proper manner, the Division shall have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Division, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Contractor shall not be relieved of liability to the Division for damages sustained by the Division by virtue of the Contractor's breach of this agreement, and the Division may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Division from such breach can be determined. In case of default by the Contractor, without limiting any other remedies for breach available to it, the Division may procure the contract services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The

filing of a petition for bankruptcy by the Contractor shall be an act of default under this contract.

**Waiver of Default:** Waiver by the Division of any default or breach in compliance with the terms of this contract by the Contractor shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this contract unless stated to be such in writing, signed by an authorized representative of the Department and the Contractor and attached to the contract.

**Availability of Funds:** The parties to this contract agree and understand that the payment of the sums specified in this contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Division.

**Force Majeure:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

**Survival of Promises:** All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

**Patents And Inventions:** Any invention or discovery made or conceived in the performance of this contract (hereinafter called "*INVENTION*"), and any patent granted on such *INVENTION* shall be jointly or individually owned by Contractor and/or Division in accordance with the following criteria:

- (a) Title to any *INVENTION* made or conceived jointly by employees of both Contractor and Division in the performance of this contract (hereinafter called "*JOINT INVENTION*") vests jointly in Division and Contractor.
- (b) Title to any *INVENTION* made or conceived solely by employees or students of either Contractor or Division in the performance of this Contract vests in the party whose employees or students made or conceived the *INVENTION* or discovery.

**Publication:** Contractor and its investigators are free to publish papers dealing with the results of the research project, if any, sponsored under this Contract. However, Division must be given thirty (30 days) to review such papers prior to any publication thereof. The Contractor shall acknowledge the Division's funding role in all publications.

**Similar Research:** Nothing in this Contract may be construed to limit the freedom of the Contractor or of its

researchers who are participants under the Contract from engaging in similar research made under grants, contracts, or agreements with parties other than the Division.

**Federal Intellectual Property Bankruptcy Protection Act:** The Parties agree that the Division shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365(n), and any amendments thereto.

## Compliance with Applicable Laws

**Compliance with Laws:** In the performance of this Agreement, the Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

**Equal Employment Opportunity:** The Contractor shall comply with all federal and State laws relating to equal employment opportunity in the performance of this Agreement.

**Health Insurance Portability and Accountability Act (HIPAA):** The Contractor agrees that, if the Division determines that some or all of the activities within the scope of this contract are subject to the Health Insurance Portability and Accountability Act of 1996, P.L. 104-91, as amended ("HIPAA"), or its implementing regulations, it will comply with the HIPAA requirements in the performance of this Agreement and will execute such agreements and practices as the Division may require to ensure compliance.

## Confidentiality

**Confidentiality:** Any medical records, personnel information or other items exempt from the NC Public Records Act or otherwise protected by law from disclosure given to the Contractor under this contract shall be kept confidential and not divulged or made available to any individual or organization without the prior written approval of the Division. Subject to the foregoing provisions, Contractor reserves the right to use the results of all services provided under this contract for its teaching, research and publication purposes, provided such use is otherwise permitted by applicable law.

**Data Security:** The Contractor shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations, and rules.

**Duty to Report:** The Contractor shall report a suspected or confirmed security breach to the Division's Contract Administrator within twenty-four (24) hours after the breach is first discovered, provided that the Contractor

shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the breach is first discovered. During the performance of this contract, the contractor is to notify the Division contract administrator of any contact by the federal Office for Civil Rights (OCR) received by the contractor.

**Cost Borne by Contractor:** If any applicable federal, state, or local law, regulation, or rule requires the Division or the Contractor to give affected persons written notice of a security breach arising out of the Contractor's performance under this contract, the Contractor shall bear the cost of the notice.

### Oversight

**Access to Persons and Records:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

**Record Retention:** In accordance with the State's basic records retention policy, records resulting from these Services shall not be destroyed, purged or disposed of without the express written consent of the Division during the period specified in the Stat's records retention policy and in accordance with state and federal law. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to federal policy and regulations, record retention may be longer than five years. Records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, 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 five-year period described above, whichever is later. The record retention period for Temporary Assistance for Needy Families (TANF) and MEDICAID and Medical Assistance grants and programs must be retained for a minimum of ten years.

**Government Review:** To the extent required by applicable law and pursuant to written requests from any appropriate governmental authority, Contractor and the Division shall make available to such appropriate governmental authority this Agreement and any books, records, documents and other records that are necessary

to certify the nature and extent of the services provided and the cost claimed for services rendered pursuant to this Agreement or so as to otherwise comply with the requirements of any lawful agreement between the party and such governmental authority.

### Miscellaneous

**Choice of Law:** The validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties to this contract, are governed by the laws of North Carolina. The Contractor, by signing this contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

**Amendment:** This contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Division and the Contractor. The Purchase and Contract Divisions of the NC Department of Administration and the NC Department of Health and Human Services shall give prior approval to any amendment to a contract awarded through those offices.

**Severability:** In the event that a court of competent jurisdiction holds that a provision or requirement of this contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this contract shall remain in full force and effect.

**Headings:** The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

**Gender and Number:** Masculine pronouns shall be read to include feminine pronouns and the singular of any word or phrase shall be read to include the plural and vice versa.

**Time of the Essence:** Time is of the essence in the performance of this contract.

**Key Personnel:** The Contractor shall not replace any of the key personnel assigned to the performance of this contract without the prior written approval of the Division. The term "key personnel" includes any and all persons identified by as such in the contract documents and any other persons subsequently identified as key personnel by the written agreement of the parties.

**Care of Property:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this contract and will reimburse the Division for loss of, or damage to, such property. At the termination of this contract, the Contractor shall contact the Division for instructions as to the disposition of such property and shall comply with these instructions.

**Travel Expenses:** Reimbursement to the Contractor for travel mileage, meals, lodging and other travel expenses incurred in the performance of this contract shall not exceed the rates published in the applicable State rules.

International travel shall not be reimbursed under this contract.

**Sales/Use Tax Refunds:** If eligible, the Contractor and all subcontractors shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

**Advertising:** The Contractor shall not use the award of this contract as a part of any news release or commercial advertising.



## GENERAL TERMS AND CONDITIONS

### Relationships of the Parties

**Independent Contractor:** The Contractor is and shall be deemed to be an independent contractor in the performance of this contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Division.

**Subcontracting:** The Contractor shall not subcontract any of the work contemplated under this contract without prior written approval from the Division. Any approved subcontract shall be subject to all conditions of this contract. Only the subcontractors specified in the contract documents are to be considered approved upon award of the contract. The Division shall not be obligated to pay for any work performed by any unapproved subcontractor. The Contractor shall be responsible for the performance of all of its subcontractors.

**Assignment:** No assignment of the Contractor's obligations or the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may: (a) Forward the Contractor's payment check(s) directly to any person or entity designated by the Contractor, or (b) Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check(s). In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.

**Beneficiaries:** Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Division and the named Contractor. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Division and Contractor that any such person or entity, other than the Division or the Contractor, receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

### Services

**Service Standards:** The Contractor shall provide high quality services consistent with the standard of practice in the geographic area and with all applicable federal, state, and local laws, rules and regulations, all applicable ethical standards, and standards established by applicable accrediting agencies. The Contractor shall exercise independent professional judgment in the treatment and care of patients.

**Records:** The Contractor shall maintain complete and professionally adequate medical records consistent with the standards of practice and the profession. The Contractor shall prepare all reports, notes, forms, claims and correspondence that are necessary and appropriate to the Contractor's provision of professional services.

**Licenses:** During the term of this Agreement, the Contractor shall hold, a current license at the level required to practice the Contractor's profession and provide the contracted services in the State of North Carolina.

### Indemnity and Insurance

**Indemnification:** The Division, the State of North Carolina and Contractor agree to each be solely responsible for their own acts or omissions in the performance of each of their individual duties hereunder, and shall be financially and legally responsible for all liabilities, costs, damages, expenses and attorney fees resulting from, or attributable to any and all of their individual acts or omissions to the extent allowable by law.

- (t) **Insurance:** During the term of the contract, the Contractor shall provide, at its sole cost and expense, commercial insurance of such types and with such terms and limits as may be reasonably associated with the contract. At a minimum, the Contractor shall provide and maintain the following coverage and limits:
- (15) **Professional Liability:** The Contractor shall provide and maintain, through an insurance company or through a program of self-funded insurance, professional liability insurance for itself with limits of at least \$1,000,000 per occurrence and at least \$3,000,000 in the aggregate.
  - (16) **Worker's Compensation Insurance:** The Contractor shall provide and maintain worker's compensation insurance, as required by the laws of the states in which its employees work, covering all of the Contractor's employees who are engaged in any work under the contract.
  - (17) **Employer's Liability Insurance:** The Contractor shall provide employer's liability

insurance, with minimum limits of \$500,000.00, covering all of the Contractor's employees who are engaged in any work under the contract.

(18) **Commercial General Liability Insurance or A Program of Self Insurance:** The Contractor shall provide commercial general liability insurance on a comprehensive broad form on an occurrence basis with a minimum combined single limit of \$1,000,000.00 for each occurrence.

(19) **Automobile Liability Insurance or A Program of Self Insurance:** The Contractor shall provide automobile liability insurance with a combined single limit of \$500,000.00 for bodily injury and property damage. The Contractor shall provide this insurance for all automobiles that are:

(A) owned by the Contractor and used in the performance of this contract;

(B) hired by the Contractor and used in the performance of this contract; and

(C) owned by Contractor's employees and used in performance of this contract ("non-owned vehicle insurance"). Non-owned vehicle insurance protects employers when employees use their personal vehicles for work purposes. Non-owned vehicle insurance supplements, but does not replace, the car-owner's liability insurance.

The Contractor is not required to provide and maintain automobile liability insurance on any vehicle – owned, hired, or non-owned -- unless the vehicle is used in the performance of this contract.

(u) The insurance coverage minimums specified in subparagraph (a) are exclusive of defense costs.

(v) The Contractor understands and agrees that the insurance coverage minimums specified in subparagraph (a) are not limits, or caps, on the Contractor's liability or obligations under this contract.

(w) The Contractor may obtain a waiver of any one or more of the requirements in subparagraph (a) by demonstrating that it has insurance that provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The Division shall be the sole judge of whether such a waiver should be granted.

(x) The Contractor may obtain a waiver of any one or more of the requirements in paragraph (a) by demonstrating that it is self-insured and that its self-insurance provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The Division shall be the sole judge of whether such a waiver should be granted.

(y) Providing and maintaining the types and amounts of insurance or self-insurance specified in this

paragraph is a material obligation of the Contractor and is of the essence of this contract.

(z) With the exception of programs of self insurance, the Contractor shall only obtain insurance from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in the State of North Carolina. All such insurance shall meet all laws of the State of North Carolina.

(aa) The Contractor shall comply at all times with all lawful terms and conditions of its insurance policies and all lawful requirements of its insurer.

(bb) The Contractor shall require its subcontractors to comply with the requirements of this paragraph.

(cc) The Contractor shall demonstrate its compliance with the requirements of this paragraph by submitting certificates of insurance, if requested, to the Division before the Contractor begins work under this contract.

### **Default and Termination**

**Termination Without Cause:** The Division may terminate this contract without cause by giving **30 days written notice** to the Contractor. Contractor may terminate this contract without cause upon 90 days prior written notice to the Division. In either event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Division, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made.

**Termination for Cause:** Either party may terminate this Agreement for any material breach of the Agreement provided the breaching party is given written notice of the breach and 30 days from receipt of such notice to correct the breaching conditions as described in the notice. If, the Contractor should fail to fulfill its obligations under this contract in a timely and proper manner, the Division shall have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Division, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Contractor shall not be relieved of liability to the Division for damages sustained by the Division by virtue of the Contractor's breach of this agreement, and the Division may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Division from such breach can be determined. In case of default by the Contractor, without limiting any other remedies for breach available to it, the Division may procure the contract services from other sources and hold the Contractor

responsible for any excess cost occasioned thereby. The filing of a petition for bankruptcy by the Contractor shall be an act of default under this contract.

**Waiver of Default:** Waiver by the Division of any default or breach in compliance with the terms of this contract by the Contractor shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this contract unless stated to be such in writing, signed by an authorized representative of the Department and the Contractor and attached to the contract.

**Availability of Funds:** The parties to this contract agree and understand that the payment of the sums specified in this contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Division.

**Force Majeure:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

**Survival of Promises:** All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

**Patents And Inventions:** Any invention or discovery made or conceived in the performance of this contract (hereinafter called "*INVENTION*"), and any patent granted on such *INVENTION* shall be jointly or individually owned by Contractor and/or Division in accordance with the following criteria:

- (a) Title to any *INVENTION* made or conceived jointly by employees of both Contractor and Division in the performance of this contract (hereinafter called "*JOINT INVENTION*") vests jointly in Division and Contractor.
- (b) Title to any *INVENTION* made or conceived solely by employees or students of either Contractor or Division in the performance of this Contract vests in the party whose employees or students made or conceived the *INVENTION* or discovery.

**Publication:** Contractor and its investigators are free to publish papers dealing with the results of the research project, if any, sponsored under this Contract. However, Division must be given thirty (30 days) to review such papers prior to any publication thereof. The Contractor shall acknowledge the Division's funding role in all publications.

**Similar Research:** Nothing in this Contract may be construed to limit the freedom of the Contractor or of its researchers who are participants under the Contract from engaging in similar research made under grants, contracts, or agreements with parties other than the Division.

**Federal Intellectual Property Bankruptcy Protection Act:** The Parties agree that the Division shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365(n), and any amendments thereto.

### Compliance with Applicable Laws

**Compliance with Laws:** In the performance of this Agreement, the Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

**Equal Employment Opportunity:** The Contractor shall comply with all federal and State laws relating to equal employment opportunity in the performance of this Agreement.

**Health Insurance Portability and Accountability Act (HIPAA):** The Contractor agrees that, if the Division determines that some or all of the activities within the scope of this contract are subject to the Health Insurance Portability and Accountability Act of 1996, P.L. 104-91, as amended ("HIPAA"), or its implementing regulations, it will comply with the HIPAA requirements in the performance of this Agreement and will execute such agreements and practices as the Division may require to ensure compliance.

### Confidentiality

**Confidentiality:** Any medical records, personnel information or other items exempt from the NC Public Records Act or otherwise protected by law from disclosure given to the Contractor under this contract shall be kept confidential and not divulged or made available to any individual or organization without the prior written approval of the Division. Subject to the foregoing provisions, Contractor reserves the right to use the results of all services provided under this contract for its teaching, research and publication purposes, provided such use is otherwise permitted by applicable law.

**Data Security:** The Contractor shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations, and rules.

**Duty to Report:** The Contractor shall report a suspected or confirmed security breach to the Division's Contract

Administrator within twenty-four (24) hours after the breach is first discovered, provided that the Contractor shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the breach is first discovered. During the performance of this contract, the contractor is to notify the Division contract administrator of any contact by the federal Office for Civil Rights (OCR) received by the contractor.

**Cost Borne by Contractor:** If any applicable federal, state, or local law, regulation, or rule requires the Division or the Contractor to give affected persons written notice of a security breach arising out of the Contractor's performance under this contract, the Contractor shall bear the cost of the notice.

### Oversight

**Access to Persons and Records:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

**Record Retention:** In accordance with the State's basic records retention policy, records resulting from these Services shall not be destroyed, purged or disposed of without the express written consent of the Division during the period specified in the Stat's records retention policy and in accordance with state and federal law. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to federal policy and regulations, record retention may be longer than five years. Records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, 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 five-year period described above, whichever is later. The record retention period for Temporary Assistance for Needy Families (TANF) and MEDICAID and Medical Assistance grants and programs must be retained for a minimum of ten years.

**Government Review:** To the extent required by applicable law and pursuant to written requests from any appropriate governmental authority, Contractor and the Division shall make available to such appropriate

governmental authority this Agreement and any books, records, documents and other records that are necessary to certify the nature and extent of the services provided and the cost claimed for services rendered pursuant to this Agreement or so as to otherwise comply with the requirements of any lawful agreement between the party and such governmental authority.

### Miscellaneous

**Choice of Law:** The validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties to this contract, are governed by the laws of North Carolina. The Contractor, by signing this contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

**Amendment:** This contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Division and the Contractor. The Purchase and Contract Divisions of the NC Department of Administration and the NC Department of Health and Human Services shall give prior approval to any amendment to a contract awarded through those offices.

**Severability:** In the event that a court of competent jurisdiction holds that a provision or requirement of this contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this contract shall remain in full force and effect.

**Headings:** The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

**Gender and Number:** Masculine pronouns shall be read to include feminine pronouns and the singular of any word or phrase shall be read to include the plural and vice versa.

**Time of the Essence:** Time is of the essence in the performance of this contract.

**Key Personnel:** The Contractor shall not replace any of the key personnel assigned to the performance of this contract without the prior written approval of the Division.

The term "key personnel" includes any and all persons identified by as such in the contract documents and any other persons subsequently identified as key personnel by the written agreement of the parties.

**Care of Property:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this contract and will reimburse the Division for loss of, or damage to, such property. At the termination of this contract, the Contractor shall contact the Division for instructions as to the disposition of such property and shall comply with these instructions.

**Travel Expenses:** Reimbursement to the Contractor for travel mileage, meals, lodging and other travel expenses incurred in the performance of this contract shall not exceed the rates published in the applicable State rules. International travel shall not be reimbursed under this contract.

**Sales/Use Tax Refunds:** If eligible, the Contractor and all subcontractors shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

**Advertising:** The Contractor shall not use the award of this contract as a part of any news release or commercial advertising.

## **APPENDIX B**

### **CERTIFICATIONS AND ASSURANCES**

1. Conflict of Interest (choose one)
  - a. [Conflict of Interest Acknowledgement and Policy \(non-governmental agencies\)](#)
  - b. [Conflict of Interest Acknowledgement and Policy - Individual](#)
2. [State Grant Certification – No Overdue Tax Debts \(non-governmental agencies\)](#)
3. [IRS Tax Exemption Letter \(if not already electronically on file\) and IRS Tax Exemption Verification Form \(Annual\) \(Non Profit Contractors\)](#)
4. [Federal Certifications](#)
5. [State Certifications](#)
6. [Iran Divestment Act](#)
7. [FFATA Subawardee Reporting Form](#)

**CONFLICT OF INTEREST ACKNOWLEDGEMENT AND POLICY**

State of \_\_\_\_\_

County \_\_\_\_\_

I, \_\_\_\_\_, Notary Public for said County and State, certify that

\_\_\_\_\_ personally appeared before me this day and acknowledged

that he/she is \_\_\_\_\_ of \_\_\_\_\_  
[name of Organization]

and by that authority duly given and as the act of the Organization, affirmed that the foregoing Conflict of

Interest Policy was adopted by the Board of Directors/Trustees or other governing body in a meeting held on the

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Official Seal)

Notary Public

My Commission expires \_\_\_\_\_, 20 \_\_\_\_

***Instruction for Organization:***

***Sign and attach the following pages after adopted by the Board of Directors/Trustees or other governing body OR replace the following with the current adopted conflict of interest policy.***

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Signature of Organization Official

## Conflict of Interest Policy Example

The Board of Directors/Trustees or other governing persons, officers, employees or agents are to avoid any conflict of interest, even the appearance of a conflict of interest. The Organization's Board of Directors/Trustees or other governing body, officers, staff and agents are obligated to always act in the best interest of the organization. This obligation requires that any Board member or other governing person, officer, employee or agent, in the performance of Organization duties, seek only the furtherance of the Organization mission. At all times, Board members or other governing persons, officers, employees or agents, are prohibited from using their job title, the Organization's name or property, for private profit or benefit.

A. The Board members or other governing persons, officers, employees, or agents of the Organization should neither solicit nor accept gratuities, favors, or anything of monetary value from current or potential contractors/vendors, persons receiving benefits from the Organization or persons who may benefit from the actions of any Board member or other governing person, officer, employee or agent. This is not intended to preclude bona-fide Organization fund raising-activities.

B. A Board or other governing body member may, with the approval of Board or other governing body, receive honoraria for lectures and other such activities while not acting in any official capacity for the Organization. Officers may, with the approval of the Board or other governing body, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. If a Board or other governing body member, officer, employee or agent is acting in any official capacity, honoraria received in connection with activities relating to the Organization are to be paid to the Organization.

C. No Board member or other governing person, officer, employee, or agent of the Organization shall participate in the selection, award, or administration of a purchase or contract with a vendor where, to his knowledge, any of the following has a financial interest in that purchase or contract:

1. The Board member or other governing person, officer, employee, or agent;
2. Any member of their family by whole or half blood, step or personal relationship or relative-in-law;
3. An organization in which any of the above is an officer, director, or employee;
4. A person or organization with whom any of the above individuals is negotiating or has any arrangement concerning prospective employment or contracts.

D. **Duty to Disclosure** -- Any conflict of interest, potential conflict of interest, or the appearance of a conflict of interest is to be reported to the Board or other governing body or one's supervisor immediately.

E. **Board Action** -- When a conflict of interest is relevant to a matter requiring action by the Board of Directors/Trustees or other governing body, the Board member or other governing person, officer, employee, or agent (person(s)) must disclose the existence of the conflict of interest and be given the opportunity to disclose all material facts to the Board and members of committees with governing board delegated powers considering the possible conflict of interest. After disclosure of all material facts, and after any discussion with the person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

In addition, the person(s) shall not participate in the final deliberation or decision regarding the matter under consideration and shall leave the meeting during the discussion of and vote of the Board of Directors/Trustees or other governing body.

F. **Violations of the Conflicts of Interest Policy** -- If the Board of Directors/Trustees or other governing body has reasonable cause to believe a member, officer, employee or agent has failed to disclose actual or possible conflicts of interest, it shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose. If, after hearing the person's response and after making further investigation as warranted by the circumstances, the Board of Directors/Trustees or other governing body determines the member, officer, employee or agent has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.



**G. Record of Conflict** -- The minutes of the governing board and all committees with board delegated powers shall contain:

1. The names of the persons who disclosed or otherwise were found to have an actual or possible conflict of interest, the nature of the conflict of interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
2. The names of the persons who were present for discussions and votes relating to the transaction or arrangement that presents a possible conflict of interest, the content of the discussion, including any alternatives to the transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Approved by:

##ContractorName##

Name of Organization

---

Signature of Organization Official

---

Date

**CONFLICT OF INTEREST ACKNOWLEDGEMENT AND POLICY - INDIVIDUAL**

**A conflict of interest** is a situation in which the individual and/or independent contractor has competing professional or personal interests (usually in a financial or economic nature). Such competing interests can make it difficult to fulfill his or her duties and responsibilities impartially. A conflict of interest exists even if no unethical or improper act results from it. A conflict of interest can create an appearance of impropriety that can undermine confidence in the person, profession, or court system.

As an independent contractor for the Department of Health and Human Services (DHHS) the contractor warrants and affirms the following:

His/her business is independent and that he/she markets his/her professional services to others, except to the extent necessary to avoid a conflict of interest.

The position is not used for financial gain beyond that received directly for this service nor will the work performed on this project create an appearance of a conflict of interest for me or a member of my family or others with whom I have business or other ties.

When a conflict of interest is identified, the contractor will disclose it in writing to the contract administrator listed on the contract.

\_\_\_\_\_  
Signature of Individual

State of \_\_\_\_\_

County \_\_\_\_\_

I, \_\_\_\_\_, Notary Public for said County and State, certify that  
\_\_\_\_\_ personally appeared before me this day and acknowledged  
and affirmed that they will abide by the foregoing Conflict of Interest Policy

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
(Official Seal)

Notary Public

My Commission expires \_\_\_\_\_, 20 \_\_\_\_

## State Grant Certification – No Overdue Tax Debts

**Grantee/Contractor** should complete this certification for all state funds received. Entity should enter appropriate data in the yellow highlighted areas. The completed and signed form should be provided to the state agency funding the grant to be attached to the contract for the grant funds. A copy of this form, along with the completed contract, should be kept by the funding agency and available for review by the Office of State Budget and Management.

*Note: If you have a contract that extends more than one state fiscal year, you will need to obtain an updated certification for each year of the contract.*

### Entity's Letterhead

**[Date of Certification (mmddyyyy)]**

To: State Agency Head and Chief Fiscal Officer

#### Certification:

We certify that the **[insert organization's name]** does not have any overdue tax debts, as defined by N.C.G.S. 105-243.1, at the federal, State, or local level. We further understand that any person who makes a false statement in violation of N.C.G.S. 143C-6-23(c) is guilty of a criminal offense punishable as provided by N.C.G.S.) 143C-10-1b.

#### Sworn Statement:

**[Name of Board Chair]** and **[Name of Second Authorizing Official]** being duly sworn, say that we are the Board Chair and **[Title of the Second Authorizing Official]**, respectively, of **[insert name of organization]** of **[City]** in the State of **[Name of State]**; and that the foregoing certification is true, accurate and complete to the best of our knowledge and was made and subscribed by us. We also acknowledge and understand that any misuse of State funds will be reported to the appropriate authorities for further action.

\_\_\_\_\_  
Board Chair

\_\_\_\_\_  
**[Title of Second Authorizing Official]**

Sworn to and subscribed before me on the day of the date of said certification.

\_\_\_\_\_  
(Notary Signature and Seal)

My Commission Expires: \_\_\_\_\_

If there are any questions, please contact the state agency that provided your grant. If needed, you may contact the North Carolina Office of State Budget and Management:

NCGrants@osbm.nc.gov-(919)807-4795

<sup>1</sup> G.S. 105-243.1 defines: Overdue tax debt. – Any part of a tax debt that remains unpaid 90 days or more after the notice of final assessment was mailed to the taxpayer. The term does not include a tax debt, however, if the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after the notice of final assessment was mailed and has not failed to make any payments due under the installment agreement.”

**CERTIFICATION OF ELIGIBILITY  
Under the Iran Divestment Act**

Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-86.55 *et seq.*\* requires that each vendor, prior to contracting with the State certify, and the undersigned on behalf of the Vendor does hereby certify, to the following:

1. that the vendor is not identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
2. that the vendor shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
3. that the undersigned is authorized by the Vendor to make this Certification.

Vendor: \_\_\_\_\_

By: \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address: <https://www.nctreasurer.com/Inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx> and will be updated every 180 days. For questions about the Department of State Treasurer's Iran Divestment Policy, please contact Meryl Murtagh at [Meryl.Murtagh@nctreasurer.com](mailto:Meryl.Murtagh@nctreasurer.com) or (919) 814-3852.

\* Note: Enacted by Session Law 2015-118 as G.S. 143C-55 *et seq.*, but has been renumbered for codification at the direction of the Revisor of Statutes.

*The Non-Profit Contractor must provide a copy of their IRS Tax Exemption Status Letter.  
If DHHS already has a copy of that document electronically on file, the annual verification must be submitted  
validating that their Tax Exempt Status has not changed.*

**IRS Tax Exemption Verification Form (Annual)**

We, the undersigned entity, hereby testify that the 501 (c) (3) status is on file with the North Carolina Department of Health and Human Services and is still in effect.

Name of Agency \_\_\_\_\_

\_\_\_\_\_  
Chairman, Executive Director, or other Authorized Official

Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

## FEDERAL CERTIFICATIONS

**The undersigned states that:**

1. He or she is the duly authorized representative of the Contractor named below;
2. He or she is authorized to make, and does hereby make, the following certifications on behalf of the Contractor, as set out herein:
  - a. The Certification Regarding Nondiscrimination;
  - b. The Certification Regarding Drug-Free Workplace Requirements;
  - c. The Certification Regarding Environmental Tobacco Smoke;
  - d. The Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions; and
  - e. The Certification Regarding Lobbying;
3. He or she has completed the Certification Regarding Drug-Free Workplace Requirements by providing the addresses at which the contract work will be performed;
4. [Check the applicable statement]
  - [ ] He or she **has completed** the attached **Disclosure Of Lobbying Activities** because the Contractor **has made, or has an agreement to make**, a payment to a lobbying entity for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action;

**OR**

  - [ ] He or she **has not completed** the attached **Disclosure Of Lobbying Activities** because the Contractor **has not made, and has no agreement to make**, any payment to any lobbying entity for influencing or attempting to influence any officer or employee of any agency, any Member of Congress, any officer or employee of Congress, or any employee of a Member of Congress in connection with a covered Federal action.
5. The Contractor shall require its subcontractors, if any, to make the same certifications and disclosure.

---

**Signature**

**Title**

---

**Contractor Name**

**Date**

**[This Certification Must be Signed by the Same Individual Who Signed the Proposal Execution Page]**

### **I. Certification Regarding Nondiscrimination**

**The Contractor certifies** that it will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (h) the Food Stamp Act and USDA policy, which prohibit discrimination on the basis of religion and political beliefs; and (i) the requirements of any other nondiscrimination statutes which may apply to this Agreement.

**II. Certification Regarding Drug-Free Workplace Requirements**

1. The Contractor certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, 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 violation of such prohibition;
  - b. Establishing a drug-free awareness program to inform employees about:
    - i. The dangers of drug abuse in the workplace;
    - ii. The Contractor's policy of maintaining a drug-free workplace;
    - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
    - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - c. Making it a requirement that each employee be engaged in the performance of the agreement be given a copy of the statement required by paragraph (a);
  - d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the agreement, the employee will:
    - i. Abide by the terms of the statement; and
    - ii. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
  - e. Notifying the Department within ten days after receiving notice under subparagraph (d)(ii) from an employee or otherwise receiving actual notice of such conviction;
  - f. Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(ii), with respect to any employee who is so convicted:
    - i. Taking appropriate personnel action against such an employee, up to and including termination; or
    - ii. Requiring such employee to participate satisfactorily 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; and
  - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
2. The sites for the performance of work done in connection with the specific agreement are listed below (list all sites; add additional pages if necessary):

**Address**

Street

\_\_\_\_\_  
City, State, Zip Code

Street

\_\_\_\_\_  
City, State, Zip Code

3. Contractor will inform the Department of any additional sites for performance of work under this agreement.
4. False certification or violation of the certification may be grounds for suspension of payment, suspension or termination of grants, or government-wide Federal suspension or debarment. 45 C.F.R. 82.510.

### **III. Certification Regarding Environmental Tobacco Smoke**

Public Law 103-227, Part C-Environmental Tobacco Smoke, 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. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000.00 per day and/or the imposition of an administrative compliance order on the responsible entity.

**The Contractor certifies** that it will comply with the requirements of the Act. The Contractor further agrees that it will require the language of this certification be included in any subawards that contain provisions for children's services and that all subgrantees shall certify accordingly.

### **IV. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions**

#### **Instructions**

[The phrase "prospective lower tier participant" means the Contractor.]

1. By signing and submitting this document, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of the fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originate may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant will provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier 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 rules implementing Executive Order 12549, 45 CFR Part 76. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this document that it will include the 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.
7. 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 debarred, suspended, ineligible, or voluntarily excluded from 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 Nonprocurement List.



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 a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized in paragraph 5 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 department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

### **Certification**

1. **The prospective lower tier participant certifies**, by submission of this document, 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.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### **V. Certification Regarding Lobbying**

**The Contractor certifies**, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federally funded contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form SF-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award document for subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) who receive federal funds of \$100,000.00 or more and that all subrecipients shall certify and disclose accordingly.
4. 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. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

### **VI. Disclosure Of Lobbying Activities**

#### **Instructions**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal Identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered Federal action.  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate boxes. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate boxes. Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D. C. 20503

**Disclosure Of Lobbying Activities  
(Approved by OMB 0344-0046)**

**Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352**

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract  <input type="checkbox"/> b. grant  <input type="checkbox"/> c. cooperative agreement  <input type="checkbox"/> d. loan  <input type="checkbox"/> e. loan guarantee  <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. Bid/offer/application  <input type="checkbox"/> b. Initial Award  <input type="checkbox"/> c. Post-Award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing  <input type="checkbox"/> b. material change</p> <p><b>For Material Change Only:</b>  Year _____ Quarter _____  Date Of Last Report: _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime  <input type="checkbox"/> Subawardee Tier (if known) _____</p> <p>Congressional District (if known) _____</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District (if known) _____</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> <p>CFDA Number (if applicable) _____</p>	
<p>8. Federal Action Number (if known)</p>	<p>9. Award Amount (if known) \$</p>	
<p>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):</p> <p align="center"><i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i></p>	<p>b. Individuals Performing Services (including address if different from No. 10a.) (last name, first name, MI):</p> <p align="center"><i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i></p>	
<p>11. Amount of Payment (check all that apply):</p> <p>\$ _____ € actual € planned</p>	<p>13. Type of Payment (check all that apply):</p> <p><input type="checkbox"/> a. retainer  <input type="checkbox"/> b. one-time fee  <input type="checkbox"/> c. commission  <input type="checkbox"/> d. contingent fee  <input type="checkbox"/> e. deferred  <input type="checkbox"/> f. other; specify: _____</p>	
<p>12. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash  <input type="checkbox"/> b. In-kind; specify: Nature _____  Value _____</p>		
<p>14. Brief Description of Services Performed or to be Performed and Date(s) of Services, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11 (attach Continuation Sheet(s) SF-LLL-A, if necessary):</p>		
<p>15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>16. Information requested through this form is authorized by title 31 U. S. C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U. S. C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>	<p>Signature: _____  Print Name: _____  Title: _____  Telephone No: _____ Date: _____</p>	
<p>Federal Use Only</p>		<p>Authorized for Local Reproduction Standard Form - LLL</p>

**State Certifications**  
**Contractor Certifications Required by North Carolina Law**

**Instructions**

The person who signs this document should read the text of the statutes listed below and consult with counsel and other knowledgeable persons before signing. The text of each North Carolina General Statutes can be found online at:

- Article 2 of Chapter 64: [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter\\_64/Article\\_2.pdf](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_64/Article_2.pdf)
- G.S. 105-164.8(b): [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_105/GS\\_105-164.8.pdf](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_105/GS_105-164.8.pdf)
- G.S. 143-48.5: [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_143/GS\\_143-48.5.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-48.5.html)
- G.S. 143-59.1: [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_143/GS\\_143-59.1.pdf](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-59.1.pdf)
- G.S. 143-59.2: [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_143/GS\\_143-59.2.pdf](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-59.2.pdf)
- G.S. 143-133.3: [http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_143/GS\\_143-133.3.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-133.3.html)

**Certifications**

- (1) **Pursuant to G.S. 143-48.5 and G.S. 143-133.3**, the undersigned hereby certifies that the Contractor named below, and the Contractor's subcontractors, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system." E-Verify System Link: [www.uscis.gov](http://www.uscis.gov)
- (2) **Pursuant to G.S. 143-59.1(b)**, the undersigned hereby certifies that the Contractor named below is not an "ineligible Contractor" as set forth in G.S. 143-59.1(a) because:
  - (a) Neither the Contractor nor any of its affiliates has refused to collect the use tax levied under Article 5 of Chapter 105 of the General Statutes on its sales delivered to North Carolina when the sales met one or more of the conditions of G.S. 105-164.8(b); **and**
  - (b) [check **one** of the following boxes]
    - Neither the Contractor nor any of its affiliates has incorporated or reincorporated in a "tax haven country" as set forth in G.S. 143-59.1(c)(2) after December 31, 2001; **or**
    - The Contractor or one of its affiliates **has** incorporated or reincorporated in a "tax haven country" as set forth in G.S. 143-59.1(c)(2) after December 31, 2001 **but** the United States is not the principal market for the public trading of the stock of the corporation incorporated in the tax haven country.
- (3) **Pursuant to G.S. 143-59.2(b)**, the undersigned hereby certifies that none of the Contractor's officers, directors, or owners (if the Contractor is an unincorporated business entity) has been convicted of any violation of Chapter 78A of the General Statutes or the Securities Act of 1933 or the Securities Exchange Act of 1934 within 10 years immediately prior to the date of the bid solicitation.
- (4) The undersigned hereby certifies further that:
  6. He or she is a duly authorized representative of the Contractor named below;
  7. He or she is authorized to make, and does hereby make, the foregoing certifications on behalf of the Contractor; **and**
  8. He or she understands that any person who knowingly submits a false certification in response to the requirements of G.S. 143-59.1 and -59.2 shall be guilty of a Class I felony.

---

Contractor's Name

---

Signature of Contractor's Authorized Agent

Date

---

Printed Name of Contractor's Authorized Agent

Title

---

Signature of Witness

Date

Printed Name of Witness \_\_\_\_\_

Title \_\_\_\_\_

The witness should be present when the Contractor's Authorized Agent signs this certification and should sign and date this document immediately thereafter.

**Federal Funding Accountability and Transparency Act (FFATA) Data Reporting Requirement**  
NC DHHS, Division of \_\_\_\_\_ Subawardee Information

**A. Exemptions from Reporting**

- Entities are **exempted** from the entire FFATA reporting requirement if **any** of the following are true:
  - The entity has a gross income, from all sources, of less than \$300,000 in the previous tax year
  - The entity is an individual
  - If the required reporting would disclose classified information
- Entities who are not exempted entirely from FFATA reporting may be exempted from the requirement to provide executive compensation data. This executive compensation data is required ONLY if both below are true:
  - More than 80% of the entity's gross revenues are from the federal government **and** those revenues are more than \$25 million in the preceding fiscal year
  - Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

By signing below, I state that the entity listed below is exempt from:

**The entire FFATA reporting requirement:**

- as the entity's gross income is less than \$300,000 in the previous tax year.
- as the entity is an individual.
- as the reporting would disclose classified information.

**Only executive compensation data reporting:**

- as at least one of the bulleted items in item number 2 above is not true.

Signature \_\_\_\_\_ Name \_\_\_\_\_ Title \_\_\_\_\_

Entity \_\_\_\_\_ Date \_\_\_\_\_

**B. Reporting**

- FFATA Data** required by all entities which receive federal funding (except those exempted above) per the reporting requirements of the *Federal Funding Accountability and Transparency Act (FFATA)*.

Entity's Legal Name _____	Contract Number _____
------------------------------	--------------------------

- Active SAM registration record is attached  
An active registration with SAM is **required**  
(go to [www.sam.gov](http://www.sam.gov) for more info about SAM)

Entity's DUNS Number _____	Entity's Parent's DUNS Nbr (if applicable) _____
----------------------------	---

**Entity's Location**

↘ **Primary Place of Performance for specified contract**  
Check here if the address is the **same** as Entity's  
Location

street address \_\_\_\_\_  
city/st/zip+4 \_\_\_\_\_  
county \_\_\_\_\_

street address \_\_\_\_\_  
city/st/zip+4 \_\_\_\_\_  
county \_\_\_\_\_

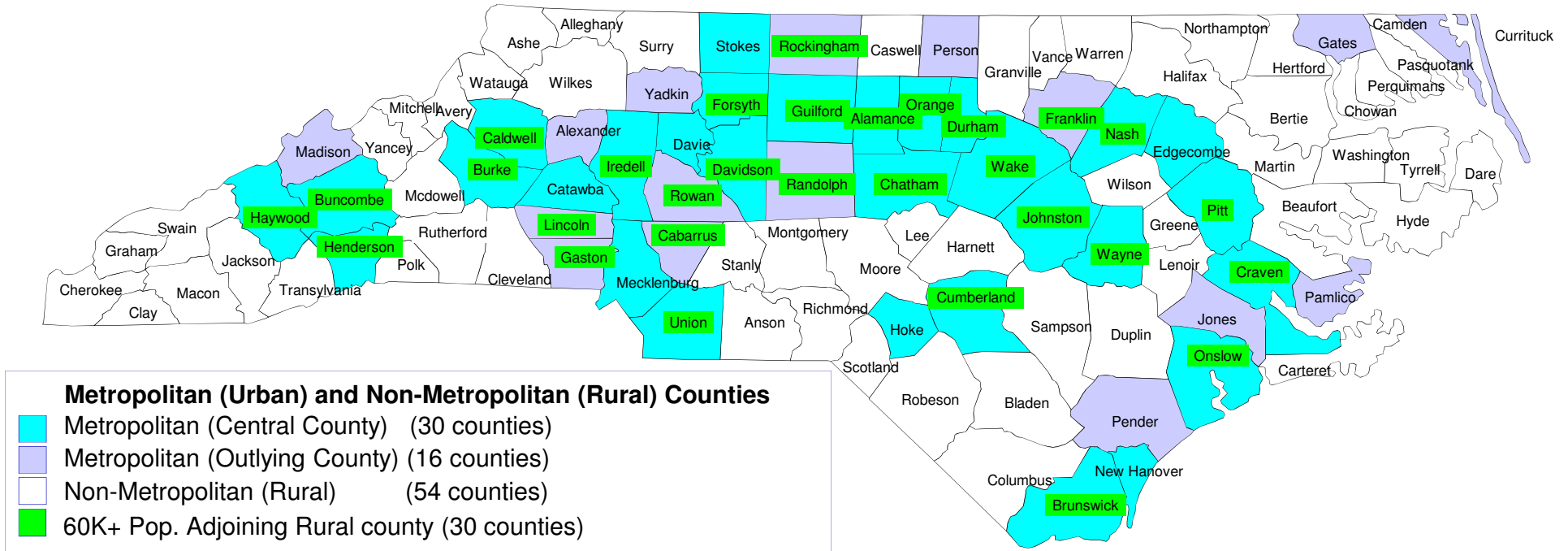
- Executive Compensation Data** for the entity's five most highly compensated officers (unless exempted above):

Title	Name	Total Compensation
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

- 4. \_\_\_\_\_
- 5. \_\_\_\_\_

# APPENDIX C North Carolina

## US OMB Metropolitan (Urban) and Non-Metropolitan (Rural) Counties



**Urban** includes Metropolitan counties (46 counties).

**Rural** is anything other than Metropolitan counties (54 counties).

**Central County** - at least 50 percent of the population resides within urban areas of 10,000 or more population or contain at least 5,000 people residing within a single urban area of 10,000 or more population.

**Outlying County** - included in the Metro/Micro Statistical Area if they meet specified requirements of commuting to or from the central counties.

**Data Sources:** <http://www.census.gov/population/metro/data/def.html> (July 2015)

[http://www.hrsa.gov/ruralhealth/policy/definition\\_of\\_rural.html](http://www.hrsa.gov/ruralhealth/policy/definition_of_rural.html) (November 2015)

**North Carolina  
Metropolitan (Urban) and Non-Metropolitan (Rural) Counties  
As of July 2015**

100                      46 Urban  
54 Rural                      100                      100                      30

COUNTYNAME	URBAN_RURAL	METRO_NONMETRO	CENTRAL_OUTLYING	60K+ Pop. - Adjoining Rural
Alamance	Urban	Metropolitan	Central	Yes
Alexander	Urban	Metropolitan	Outlying	
Alleghany	Rural			
Anson	Rural			
Ashe	Rural			
Avery	Rural			
Beaufort	Rural			
Bertie	Rural			
Bladen	Rural			
Brunswick	Urban	Metropolitan	Central	Yes
Buncombe	Urban	Metropolitan	Central	Yes
Burke	Urban	Metropolitan	Central	Yes
Cabarrus	Urban	Metropolitan	Outlying	Yes
Caldwell	Urban	Metropolitan	Central	Yes
Camden	Rural			
Carteret	Rural			
Caswell	Rural			
Catawba	Urban	Metropolitan	Central	
Chatham	Urban	Metropolitan	Central	Yes
Cherokee	Rural			
Chowan	Rural			
Clay	Rural			
Cleveland	Rural			
Columbus	Rural			
Craven	Urban	Metropolitan	Central	Yes
Cumberland	Urban	Metropolitan	Central	Yes
Currituck	Urban	Metropolitan	Outlying	
Dare	Rural			
Davidson	Urban	Metropolitan	Central	Yes
Davie	Urban	Metropolitan	Central	
Duplin	Rural			
Durham	Urban	Metropolitan	Central	Yes
Edgecombe	Urban	Metropolitan	Central	
Forsyth	Urban	Metropolitan	Central	Yes
Franklin	Urban	Metropolitan	Outlying	Yes
Gaston	Urban	Metropolitan	Outlying	Yes
Gates	Urban	Metropolitan	Outlying	
Graham	Rural			
Granville	Rural			
Greene	Rural			
Guilford	Urban	Metropolitan	Central	Yes
Halifax	Rural			



**North Carolina  
Metropolitan (Urban) and Non-Metropolitan (Rural) Counties  
As of July 2015**

100                      46 Urban                      100                      100                      30  
                                 54 Rural

COUNTYNAME	URBAN_RURAL	METRO_NONMETRO	CENTRAL_OUTLYING	60K+ Pop. - Adjoining Rural
Harnett	Rural			
Haywood	Urban	Metropolitan	Central	Yes
Henderson	Urban	Metropolitan	Central	Yes
Hertford	Rural			
Hoke	Urban	Metropolitan	Central	
Hyde	Rural			
Iredell	Urban	Metropolitan	Central	Yes
Jackson	Rural			
Johnston	Urban	Metropolitan	Central	Yes
Jones	Urban	Metropolitan	Outlying	
Lee	Rural			
Lenoir	Rural			
Lincoln	Urban	Metropolitan	Outlying	Yes
McDowell	Rural			
Macon	Rural			
Madison	Urban	Metropolitan	Outlying	
Martin	Rural			
Mecklenburg	Urban	Metropolitan	Central	
Mitchell	Rural			
Montgomery	Rural			
Moore	Rural			
Nash	Urban	Metropolitan	Central	Yes
New Hanover	Urban	Metropolitan	Central	
Northampton	Rural			
Onslow	Urban	Metropolitan	Central	Yes
Orange	Urban	Metropolitan	Central	Yes
Pamlico	Urban	Metropolitan	Outlying	
Pasquotank	Rural			
Pender	Urban	Metropolitan	Outlying	
Perquimans	Rural			
Person	Urban	Metropolitan	Outlying	
Pitt	Urban	Metropolitan	Central	Yes
Polk	Rural			
Randolph	Urban	Metropolitan	Outlying	Yes
Richmond	Rural			
Robeson	Rural			
Rockingham	Urban	Metropolitan	Outlying	Yes
Rowan	Urban	Metropolitan	Outlying	Yes
Rutherford	Rural			
Sampson	Rural			
Scotland	Rural			
Stanly	Rural			

**North Carolina  
Metropolitan (Urban) and Non-Metropolitan (Rural) Counties  
As of July 2015**

100	46 Urban 54 Rural	100	100	30
COUNTYNAME	URBAN_RURAL	METRO_NONMETRO	CENTRAL_OUTLYING	60K+ Pop. - Adjoining Rural
Stokes	Urban	Metropolitan	Central	
Surry	Rural			
Swain	Rural			
Transylvania	Rural			
Tyrrell	Rural			
Union	Urban	Metropolitan	Central	Yes
Vance	Rural			
Wake	Urban	Metropolitan	Central	Yes
Warren	Rural			
Washington	Rural			
Watauga	Rural			
Wayne	Urban	Metropolitan	Central	Yes
Wilkes	Rural			
Wilson	Rural			
Yadkin	Urban	Metropolitan	Outlying	
Yancey	Rural			

Source: U.S. Census Bureau, Population Division; Office of Management and Budget, July 2015 delineations, <http://www.census.gov/population/metro/data/def.html>, Internet Release Date: April 2016, Downloaded 7/15/16.

The United States Office of Management and Budget (OMB) delineates metropolitan and micropolitan statistical areas and designates counties as Metropolitan, Micropolitan, or Neither according to published standards that are applied to Census Bureau data. The general concept of a metropolitan or micropolitan statistical area is that of a core area containing a substantial population nucleus, together with adjacent communities having a high degree of economic and social integration with that core.

A Metropolitan area contains a core urban area of 50,000 or more population. OMB considers all counties that are part of a Metropolitan Statistical Area (MSA) to be urban and all counties that are not part of an MSA to be rural. In NC there are 46 metropolitan (urban) counties and 54 non-metropolitan (rural) counties. The above table shows the counties that are designated as metropolitan (urban) counties. All undesignated counties are non-metropolitan (rural). The micropolitan counties that are part of the non-metropolitan (rural) group of counties are not annotated.

Under the standards, the county (or counties) in which at least 50 percent of the population resides within urban areas of 10,000 or more population, or that contain at least 5,000 people residing within a single urban area of 10,000 or more population, is identified as a "central county" (counties). Additional "outlying counties" are included in the MSA if they meet specified requirements of commuting to or from the central counties.

Source: <http://www.census.gov/population/metro/about/>