

RFP 24-78424 – Enterprise Decision Support Solutions (EDSS) – Enterprise Data Warehouse (EDW)

Attachment A

Vendor: **Critical Skills, Inc. dba CSpring**

1. Letter of Commitment
2. Indiana WBE Certification
3. Letter of Agreement



July 16, 2024

Jeffrey Grosklags
Corporate VP, Finance & Accounting
Optum Government Solutions, Inc.
11000 OPTUM CIR
Eden Prairie, MN 55344

Re: Subcontractor Letter of Commitment in Connection with the EDW Scope Required under the Indiana Request for Proposal 24-78424 for Enterprise Decision Support Solutions (EDSS)

Dear Mr. Grosklags:

Critical Skills, Inc., d/b/a CSpring (CSpring) is an Indiana certified Women Business Enterprise and is pleased to participate as a subcontractor to Optum Government Solutions, Inc. ("Optum"), in connection with performing some of the EDW Scope required under the above captioned Request for Proposal issued by the Indiana Department of Administration on behalf of the Indiana Family and Social Services Administration (the "State") for EDSS.

By this letter CSpring hereby acknowledges the following details that are set forth in a Letter of Agreement between CSpring and Optum for the bid being submitted by Optum to the State in response to the EDW Scope required under this RFP.

Subcontract Amount as a Percentage of the Total Bid Amount for the EDW Scope: 13%

Subcontract Amount in Total Dollars: \$8,209,096

Description of Products and/or Services to be Provided on this Project: As a subcontractor to Prime Contractor Optum Government Solutions, Inc., CSpring will provide skilled IT staffing for the Indiana EDSS project. CSpring will provide staffing in accordance with the proposed Optum staffing plan and RFP #24-78424, EDW Scope including the following roles: Data Engineers, Quality Analyst, Embedded Data Analysts, Business Analysts, Data Engineers, BI Developers Medicaid Systems SME/Data Governance, and Enhancement Pool staff support.

Approximate Date the Subcontractor Will Perform Work on this Contract: CSpring shall provide the services described above throughout the Initial Term, as defined below (and if renewed, throughout the Renewal Term, as defined below) of the Contract between Optum and the State that will result from Optum's Proposal for the EDW Scope required under the RFP if the State awards such a Contract (the "Prime Contract") to Optum. The estimated commencement date of the initial term of the Prime Contract shall be March 1, 2025, and the initial term shall be four (4) years, with the potential for two (2) one-year (1) extensions. The foregoing dates of performance by CSpring shall be subject to early termination provisions that would be set forth in the Subcontract between CSpring and Optum.

CSpring is willing to carry out its responsibilities under this proposal and looks forward to providing the above services for the benefit of the State as a subcontractor to Optum for the EDW Scope on this important project.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Pizarro'.

Cynthia Pizarro
President



STATE OF INDIANA

Eric J. Holcomb, Governor

DEPARTMENT OF ADMINISTRATION
Division of Supplier Diversity

Indiana Government Center South
402 West Washington Street, Room W462
Indianapolis, IN 46204
(317) 232 - 3061

June 16, 2022

Ms. Cynthia Pizarro
Critical Skills Inc. dba CSpring
9059 Technology Lane, Suite 700
Fishers, IN 46038

Subject: Application for WBE Certification

Dear Ms. Pizarro,

Congratulations! The Indiana Department of Administration, Division of Supplier Diversity is pleased to inform you that **Critical Skills Inc. dba CSpring** is hereby certified as a Women's Business Enterprise (WBE).

Your company provides a commercially useful function in the areas listed below. Only work performed in these areas will be counted towards Women's Business Enterprise participation:

UNSPSC CODE(S)

<i>Code</i>	<i>Description</i>
80100000	Management advisory services
80101507	Information technology consultation services
80101600	Project management
80111600	Temporary personnel services
81110000	Computer services
81111500	Software or hardware engineering
81111700	Management information systems MIS
81112000	Data services
81112200	Software maintenance and support
81160000	Information technology service
81161501	Software application administration service

On September 13, 2010, the Governor's Commission on Supplier Diversity approved the department's effort to streamline its recertification process. Instead of conducting an onsite visit to each company seeking recertification, the department now has the discretion to waive the visit after a thorough review of the company's file and recertification documents. We have approved your recertification and it is valid through **June 30, 2025**. Please note that IDOA continues to reserve the right to conduct a site visit or phone interview at any time with certified companies.

Although your certification is valid for three years, you are required to submit an annual ***Affidavit of Continued Eligibility (ACE)*** form, located at www.in.gov/idoa/mwbe/files/ACE_Form.pdf. Please remember that you must notify us immediately if any changes occur. Failure to notify us of changes or to provide an ACE form annually will result in the revocation of your certification. Changes include, but are not limited to, changes in location, contact information, ownership, and control.

Referencing: Critical Skills Inc. dba CSpring

We encourage you to visit IDOA's procurement website, www.in.gov/idoa/2464.htm, and update your Business Registration Profile. You must review and update your profile regularly, because state purchasing agents and prime contractors may use this information to contact you for business opportunities.

While this letter serves as notification of certification, it does not serve to prove continued eligibility. Please visit <https://www.in.gov/idoa/mwbe/2743.htm> to verify your certification status. Please contact our office at (317) 232-3061 or mwbe@idoa.in.gov if you have any other questions or concerns about your letter.

Sincerely,

Kesha Rich

Kesha Rich, Director of Certification
Indiana Department of Administration
Division of Supplier Diversity

LETTER OF AGREEMENT
EDW SCOPE

This **LETTER OF AGREEMENT**, made and entered into this 12th day of July, 2024 (the “Effective Date”), by and between Optum Government Solutions, Inc. having a place of business at 11000 Optum Circle, Eden Prairie, Minnesota 55344 (hereinafter “Optum” “Team Leader” or “Prime”), and Critical Skills, Inc., d/b/a CSpring, having a principal place of business at 880 Monon Green Blvd., Suite 101, Carmel, IN 46032 (hereinafter “Team Member” or “Subcontractor”).

WHEREAS, the Team Leader and Team Member (hereinafter sometimes collectively referred to as “Team Members” or the “Parties”) are interested in responding to Request for Proposal 24-78424 from the Indiana Department of Administration on behalf of the Family and Social Services Administration (“IN FSSA” or the “Customer”) for Enterprise Decision Support Solutions (EDSS) dated April 19, 2024, as amended (the “RFP”), where such RFP is soliciting the submission of proposals from qualified bidders to provide certain Products and/or Services described herein;

WHEREAS, the Team Members believe that a cooperative effort between them with respect to submitting a proposal for the Project under which the Prime would purchase from the Subcontractor and the Subcontractor would supply to the Prime for resale to the Customer certain services defined herein (the “Services”) will offer the Customer the best combination of capabilities to achieve optimum performance, cost, and delivery for the RFP requirements applicable to the Products and/or Services;

WHEREAS, the Team Members desire to collaborate in preparing a proposal in response to the RFP (“Proposal”) and to set forth their intent on the scope of work to be subcontracted by Prime to Subcontractor and the price to be paid by Prime to Subcontractor under an eventual Subcontract if the Customer accepts Prime’s Proposal and the Team Leader and Customer enter into a Prime Contract, as defined below;

NOW, THEREFORE, in consideration of the foregoing premises, the Team Members hereby agree as follows:

1. **General Undertaking.** The allocation of work schedule set forth in Appendix 1 (“Allocation of Work”) sets forth a general statement of the responsibilities of the Team Members with respect to the proposal effort in response to the RFP and the pricing for all products and/or services to be provided by Subcontractor pursuant to the RFP if the prime contract (“Prime Contract”) is awarded to the Prime. Any amendment to such Allocation of Work shall only be binding on the Team Members under the terms and conditions of this Agreement if signed by the authorized representatives of the Team Members. If the Prime is awarded the Prime Contract by the Customer and the Customer approves the Prime’s use of Subcontractor as a supplier for the products and/or services described in the Allocation of Work, then the Prime may, in its sole discretion, award a subcontract (“Subcontract”) to Team Member in accordance with Section 4 of this Agreement. The Allocation of Work referenced in Section 4 of this Agreement (attached at Appendix 1), and Appendices 2 and 3, shall be used as the basis for negotiation of a Subcontract which will govern the sale by Subcontractor and purchase by Prime of the Subcontractor’s Products and/or Services described in such Allocation of Work and Statement of Work.
2. **Allocation of Responsibilities.** Prime shall: (i) be the primary point of contact with Customer regarding the RFP; (ii) submit the Proposal to the RFP; (iii) be responsible for taking the lead role in conducting any required negotiations with respect to the Prime Contract; and (iv) shall enter into the Prime Contract with Customer.

3. Proposal Preparation. Prime shall: (i) take principal charge of preparing and submitting any Proposal in the response to the RFP; (ii) direct and coordinate all contacts with the Customer pertaining to the preparation of the Proposal to the RFP; (iii) have the final authority for the preparation, evaluation, and submission of the Proposal to the Customer; and (iv) be responsible for directing and coordinating any requests for additional information from the Customer prior to the award of a Prime Contract or the rejection of the Proposal. Subcontractor agrees that Appendix 2 sets forth some of the information required by Prime for inclusion in the Proposal (“Subcontractor Proposal Information”). Subcontractor shall provide Prime with information necessary for Prime to respond to a Proposal or other requests for information from the Customer after the submission of the Proposal within the time constraints imposed by Prime, subject to the condition that Subcontractor is given notice by the Prime with respect to any deadline for a response imposed by Prime or the Customer.
4. Award of Subcontract. Upon award of a Prime Contract to Prime under the RFP, the Team Members agree to negotiate in good faith, within thirty (30) days, a mutually acceptable subcontract, which shall set forth the general terms of the subcontract relationship and shall be substantially consistent with this Agreement, the Proposal, the Allocation of Work, the Master Subcontractor Agreement (MSA), and the Prime Contract (the “Subcontract”). As part of the foregoing commitment, Subcontractor acknowledges and agrees that based on the RFP, the Subcontract shall contain provisions consistent with the Prime’s obligations pursuant to the Prime Contract as such obligations related to the Subcontractor’s Allocation of Work (the “Flow Down Provisions”), which are set forth in Appendix 3 to this Agreement. In the event that the Team Members are unable to agree upon the terms and conditions of the Subcontract within thirty (30) days of the date the Customer has awarded the Prime Contract to Prime, Prime may, in its sole discretion, terminate this Agreement, including the Allocation of Work pursuant to Section 18, and Prime may immediately contract with a third party to perform the tasks referred to in the Allocation of Work.
5. Exclusivity. Subcontractor hereby agrees to partner solely with Prime in connection with the RFP and shall not submit a proposal to the RFP, whether as a prime contractor or as a subcontractor to another party, regardless of tier, other than as a subcontractor to Prime for as long as this Agreement remains in effect. Prime hereby agrees to partner with Subcontractor as its sole Women Business Enterprise (“WBE”) subcontractor as it relates to the OMPP DW portion of the EDW scope of work required under the RFP, subject to Prime’s right to subcontract with an alternative WBE subcontractor as set forth in Appendix 1, Section 3 attached to this Agreement.
6. Costs and Expenses. Each party shall bear all costs and expenses incurred by it in preparing its part of the Proposal and managing its responsibilities under the Proposal contemplated by this Agreement.
7. Confidential Information. The parties acknowledge the existence of a Mutual Non-Disclosure Agreement between Subcontractor and Prime’s affiliate, Optum Services, Inc. effective July 27, 2016 (the “NDA”). The parties agree that the NDA shall govern the exchange of information pursuant to this Agreement, and the NDA may not be terminated by either party until after expiration or termination of this Agreement, notwithstanding anything contrary set forth herein.
8. Injunctive Relief. The Team Members acknowledge that violation by one party of the provisions of Section 7 (“Confidential Information”) would cause irreparable harm to the other party not adequately compensable by monetary damages. In addition to other relief, it is agreed that either party may seek injunctive relief without necessity of posting bond to prevent any actual or

threatened violation of such provisions.

9. Warranties.

- (a) Noninfringement. Each party represents and warrants that its participation in the Proposal effort and the content contributed by it to the Proposal or pursuant to any performance in connection with the Prime Contract will not infringe or misappropriate any copyright, patent, trade secret or other intellectual property right of any third party.
- (b) Disclaimer. PRIME MAKES NO WARRANTY OR ASSURANCE AS TO THE SUCCESS OF ANY PROPOSAL, AND PRIME DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES WITH RESPECT TO ANY PROPOSAL EFFORT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10. Indemnification.

- (a) Subcontractor agrees to indemnify, defend, and hold harmless the Prime or Customer from any and all claims, demands, or actions alleging that the material, information, product or work product resulting from products and/or services furnished by the Subcontractor to the Prime hereunder or furnished by the Subcontractor to a Customer, infringes a patent, copyright, trade secret or other intellectual property right of a third party. If such claim has occurred or, in the Subcontractor's judgment, is likely to occur, the Prime agrees to allow the Subcontractor at Subcontractor's option to procure the right for the Prime or the Customer to continue to use the infringing material, information, product or work product resulting from services in accordance with the terms hereof, or to replace or modify the same so as to render it non-infringing.
- (b) The foregoing indemnities shall be contingent upon the following: the Prime shall: (1) give prompt written notice to Subcontractor of any claim, demand, or action for which indemnity is sought, (2) fully cooperate in the defense or settlement of any such claim, demand, or action, and (3) obtain the prior written agreement of the Subcontractor with respect to any settlement or proposal of settlement (which agreement shall not unreasonably be withheld).

11. Limitation of Liabilities. In no event shall either party be liable to the other for any incidental, special, exemplary, or consequential damages, including, without limitation, lost profits, even if such party has been advised of the possibility of such damages.

12. Compliance with Laws. Neither party shall take any action in furtherance of the Proposal effort or other activities contemplated hereunder, which is illegal under United States law or any other applicable law, rule or regulation ("Laws"). If a party violates any Laws in connection with the Proposal, such party shall indemnify and hold harmless the other party from all loss, damage and attorney fees arising from any claim relating to such violation.

13. Notices. Notices sent to either party shall be effective when delivered in person or transmitted by electronic mail "e-mail"), one (1) day after being sent by overnight courier, or two (2) days after being sent by first class mail postage prepaid to the address set forth above, or at such other address as the Team Members may from time to time give notice. A e-mailed copy of this Agreement, notices, or Allocations of Work (as well as a printed copy thereof) shall be treated as "original" documents admissible into evidence, unless a document's authenticity is legitimately

placed in question.

14. Independent Contractor Status. Each party is an independent contractor in relation to the other party with respect to all matters arising under this Agreement. Nothing herein shall be deemed to establish a partnership, joint venture, association, or any other form of business association or employment relationship between the Team Members. Neither party is the agent of the other, and neither may bind the other. No profits, losses, or costs will be shared under any provision of this Agreement.
15. Publicity. Any news release, public announcement, advertisement, or publicity (collectively, "Publicity") proposed to be released by either party concerning the Proposal or either party's efforts in connection with the Proposal or any resulting Prime Contract or Subcontract will be subject to the written approval of the other party prior to release. Full consideration and representation of the respective roles and contributions of both Team Members shall be given in any such authorized Publicity.
16. Default. Either party may be declared in default of this Agreement if it breaches any material provision hereof and fails within ten (10) days after receipt of notice of default to correct such default or to commence corrective action reasonably acceptable to the non-breaching party. Either party shall be in default hereof if it becomes insolvent, makes an assignment for the benefit of its creditors, a receiver is appointed or a petition in Bankruptcy is filed with respect to such party.
17. Rights In Inventions. Inventions conceived pursuant to this Agreement shall remain the property of the originating party. In the event of joint inventions, the parties shall engage in good faith negotiations to establish their respective rights. Failing agreement, each party shall have equal ownership and rights in such joint inventions, without further obligation to the other party.
18. Term, Termination. The term of this Agreement (the "Term") shall become effective upon execution of this Agreement by both Team Members and shall remain in full force and effect until terminated upon the first of the following events to occur:
 - (a) a Default by one party under this Agreement that is not cured in accordance with Section 16;
 - (b) mutual agreement of the Team Members to terminate this Agreement;
 - (c) termination by Prime for convenience, subject to thirty (30) days notice by the Prime;
 - (d) written notice from the Customer that it has decided not to award the Prime Contract to any party, or award of the Prime Contract by the Customer to a party other than the Prime and the unsuccessful conclusion of any protests challenging that award;
 - (e) award of the Prime Contract to Prime and execution by the Team Members hereto of a Subcontract as contemplated herein;
 - (f) upon the insolvency, bankruptcy, reorganization under bankruptcy laws, or assignment for the benefit of creditors of either party to the extent that there is a reasonable doubt that such party lacks the resources or ability to properly perform its obligations hereunder;

- (g) when the RFP is amended such that the services described in Appendix 1 or in the RFP, are no longer required;
 - (h) upon the indictment, suspension or debarment by the government of either party;
 - (i) if Team Leader delivers written notice to the Team Member that a Proposal will not be submitted in response to the RFP;
 - (j) the failure of the Team Members to reach an agreement on the terms of a Subcontract within 30 calendar days following award to the Prime, despite the parties reasonable and good faith efforts, or;
 - (k) the expiration of one (1) year from the issuance of the RFP.
19. Miscellaneous. This Agreement may be modified or amended only by a writing signed by the authorized representatives of both Team Members. Neither this Agreement nor any rights or obligations hereunder may be transferred or assigned without the other party's prior written consent. Neither party shall be liable for delays caused by events beyond its reasonable control. Any provision hereof found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect to the extent that the intent of the parties is preserved thereby. Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions. Headings are for reference purposes only and have no substantive effect.
20. Non-Solicitation of Employees. Team Members agree not to knowingly solicit for employment or to knowingly hire the employees of the other party that are involved in the Proposal preparation for the RFP or that perform work under the eventual SOW if Optum is awarded the Prime Contract during the term of this Agreement and for a one (1) year period thereafter. This section shall not restrict in any way the rights of either party to solicit or recruit generally in the media, and shall not prohibit either party from hiring an employee of the other who answers any advertisement or who otherwise voluntarily applies for this without having been personally solicited or recruited by the hiring party.
21. Assignment. This Agreement may not be assigned or otherwise transferred by Team Member, in whole or in part, without the prior written consent of Team Leader.
22. Waiver and Modification. No provision of this Agreement may be waived or modified except by a writing executed by authorized representatives of both parties.
23. Choice of Law and Enforceability. This Agreement shall be construed, governed, interpreted, and applied in accordance with the laws of the State of Minnesota, exclusive of its conflict of laws provisions. The failure to enforce any right or provision herein shall not constitute a waiver of that right or provision. If any provisions herein are found to be unenforceable on the grounds that they are overly broad or in conflict with applicable laws, it is the intent of the parties that such provisions be replaced, reformed or narrowed so that their original business purpose can be accomplished to the extent permitted by law, and that the remaining provisions shall not in any way be affected or impaired thereby.
24. Entire Agreement. This Agreement, the Agreement and the accompanying Appendices entered into by the Parties and integrated herein during the Term hereof, contain the entire agreement between the Team Members with respect to the subject matter hereof and supersede any previous

understandings, commitments, or agreements (oral or written) with respect to the RFP or Proposal, or MSA dated February 11, 2016.

IN WITNESS WHEREOF, the Team Members hereto have caused this Agreement to be executed by their authorized representatives as set forth below.

OPTUM GOVERNMENT SOLUTIONS, INC.

CRITICAL SKILLS, INC. D/B/A CSRING

By: 
Jeffrey Grosklags (Jul 17, 2024 13:02 CDT)

By: 

Name: Jeffrey Grosklags

Name: Cynthia Pizarro

Title: Chief Financial Officer

Title: President

Date: 07/17/2024

Date: 07/16/2024

APPENDIX 1
ALLOCATION OF WORK

The following sets forth a general statement of the allocation of the responsibilities of the Team Members with respect to the Proposal to be submitted in response to the Request for Proposal Request 24-78424 dated April 19, 2024, as amended (the “RFP”) from the Indiana Department of Administration on behalf of the Family and Social Services Administration (“IN FSSA” or the “Customer”) for Enterprise Decision Support Solutions (EDSS) (the “Project”)

1. Description of the Products and/or Services to be provided by Subcontractor, including functions to be performed by Subcontractor.

The following sets forth a general statement of the allocation of the responsibilities of the Team Members with respect to the Proposal to be submitted in response to the RFP, as amended:

The scope of work for which Subcontractor is anticipated to be responsible (the “Subcontractor Allocation of Work”) shall consist of products and services in the following areas from the RFP, where references in the General Project Description to “EDW Contractor” would include Subcontractor, to the extent of Subcontractor’s Deliverables, Responsibilities and Scope of Work set forth in Section 1.2 below:

1.1 General Project Description:

Enterprise Data Warehouse (EDW) Scope

The FSSA Office of Medicaid Policy & Planning (OMPP) and FSSA Division of Family Resources (DFR) are the most significant EDW stakeholders.

While State DST staff manages the EDW, they are supported by two incumbent vendors. The first vendor, at a high level, manages and supports the EDW’s Teradata and Informatica ETL infrastructure and OMPP Data Warehouse (OMPP DW) healthcare-oriented data extraction and reporting. The second vendor supports the Social Services Data Warehouse (SSDW), which is used by several program areas across FSSA, along with other agencies such as the Indiana Department of Health (IDOH). There is some overlap between the two vendors and they both have had roles in furthering the EDW with consolidated infrastructure and standard data warehouse-oriented tools. Note: Although both the Medicaid and social service data extraction and reporting are contained under the Teradata/Informatica platform, they are considered to be two distinct systems.

Though the current EDW is composed of two distinct segments handled by two vendors, the State wishes to combine these responsibilities under one vendor (“EDW Contractor”) for the future state of the EDW, as this Scope of Work describes. It is expected that the Contractor will find resource and cost savings efficiencies in their staffing structure to provide the needed support for both segments, while not sacrificing level of service across distinct State programs (e.g., utilizing a single Project Executive or shared security team who are able to meet service expectations across State teams)

For both segments (i.e., the OMPP DW and the SSDW), the EDW Contractor is expected to provide the following systems and M&O services:

- a. Data warehouse platform infrastructure, tools, and services
- b. Data governance

- c. Clearinghouse, functioning as the staging, ETL (extract, transform, and load) and cleansing clearinghouse for data conversion
- d. Decision support and reporting tools and services
- f. Operational reports (financial reports, program performance measurement, including but not limited to trending and forecasting)
- g. Program management reporting (e.g., using health care data as available through the advancement of Health Information Technology (HIT) in the State)
- h. Business intelligence tools and support staff dedicated to addressing program monitoring and analysis. Data analytic subject matter experts (SMEs) to serve as consultants to FSSA and liaisons to the technical data analytics team
- i. Maintenance and operations (M&O) and enhancements for the SSDW.
- j. Support the reporting needs of FSSA as well as its State and Federal partners, including IDOH and the Department of Child Services (DCS).

The SSDW segment-specific needs of the EDW are:

- o Work closely with the State Board of Accounts (SBOA) and DFR concerning TANF audits.
- o Work closely with the FSSA Privacy and Security Office and DFR concerning compliance, ongoing risk assessments, and corrective action management for example CMS POAM/Minimum Acceptable Risk Standards for Exchanges (MARS-E) requirements, SSA security requirements, and IRS Publication 1075 Audits.

1.2 Subcontractor's Deliverables, Responsibilities and Scope of Work:

Description of the Products and/or Services to be Provided by Subcontractor, including functions to be performed by Subcontractor. References to Supplier shall mean Subcontractor.

1.2.1 Tasks/Deliverables/Methodology:

Subcontractor's consultants shall be responsible for assisting Prime in performing work related to some or all, but not limited to the following tasks from the RFP:

System Support and Reporting: Manage processes and procedures required to provide technical and functional support.

- Perform resolution of all defects discovered and prioritized by the defined processes.
- Make routine maintenance changes in the ordinary course of the Contractor's provision of services defined within the scope of its Contract (such as changes to operating procedures and schedules) at no additional cost to the State.
- Conduct monitoring and analysis of Service Level Agreements.
- Assist in providing required reports and business intelligence reporting for State and Federal partners.
- Assist in providing State and federally required reports including those for the CMS (e.g., CMS Streamlined Modular Certification (SMC) Reporting), ACF, FNS (e.g., FNS Major Change Reporting), and other State entities (
- Assist in the maintenance of legacy HIP and Medicaid reporting requirements
- Assist in the maintenance legacy interface and data sharing requirements.
- Support the continuation and finalization of new reporting requirements, as well as maintenance of resulting reports.
- Support the continuation and finalization of new interface and data sharing requirements, as well as maintenance of resulting interfaces and data sharing mechanisms.

- Provide staff that have knowledge of State and Federal Medicaid laws as well as the ability to navigate Medicaid reporting requirements.
- Provide staff that understand TANF/Maintenance of Effort (MOE), SNAP, EBT, employment and training programs, eligibility determination, application tracking and redetermination tracking, and related State and Federal laws.
- Assist in the management of Operational Data Stores
- Assist in the management of any Data Marts to act as a summarized subset of the enterprise's data specific to a functional area or department, geographical region, or time period. EDW Data Marts:
- Assist in the management of data marts around the following divisional/agency data: SNAP/TANF, Division of Aging, DMHA, OECOSL, DDRS, DCS, IDOH, Finance, and State Agency data.
- Assist in the addition of any new data marts as defined by the State
- Help maintain tool development that includes but is not limited to the following: source data extraction and transformation, data cleansing, data load, data refresh, data access, security enforcement, version control/configuration management, data modeling, and metadata management.
- Help maintain a notification protocol for all users to report any problem or issue that affects data accuracy or integrity immediately.
- Maintain the current ETL that involves extracting data from outside sources; transforming it to fit operational needs (which can include quality levels); and loading it into the end target (data mart or data warehouse) and resolving pipeline failures to ensure complete data models.
- Assist in the management of audit processes and audit trail for historical reference for any records such as deleted records and merged records which complies with Federal laws and guidelines for audits such as annual SAS-70 audit (or its successor), HIPAA Security Rule, compliance with all State and Federal privacy and security regulations.

Enhancements: Design, develop, test, and implement enhancements to the system and reports, including modifications to existing reports, via the integrated change control process.

Service Requests, Incident and Problem Management: Properly plan and conduct services to minimize the occurrence of incidents and/or problems with service delivery. If incidents and/or problems are to arise, the Contractor shall work with the State to resolve issues in a timely manner based on the governance plan and priorities of the State.

Document Management: Maintain and keep up to date all artifacts.

System Expertise: Provide business and technical subject matter expertise on all Data Warehouse managed data and reporting. (Including health data and social services expertise.

Training: Assist in the preparation and presentation of training materials

Medicaid Information Technology Architecture (MITA) Support: Provide information to the State throughout their support lifecycle regarding applicable MITA maturity of the EDW solution, including maintenance of the conceptual data model and logical data model.

Data Governance: Support the establishment, maintenance, implementation and management of a data management strategy, which will include a data governance plan, staff roles and responsibilities, data catalog plan, metadata creation, data quality strategy, data retention standards, and privacy and data security standards in accordance with State and Federal standards

1.2.2 Subcontractor Personnel:

Subcontractor shall provide sufficient personnel, listed in the staffing table below, in accordance with the requirements of the RFP and in a professional and workmanlike manner. Prime will provide

oversight of Subcontractor's work, and Subcontractor staff will be required to report to Optum management as directed by Prime.

Subcontractor shall be responsible for providing personnel for the positions set forth in Section 3 in order to perform the above Subcontractor Allocation of Work, provided such personnel are accepted and approved by Prime and the Customer and where such personnel shall meet the minimum qualifications set forth in the RFP and shall be provided during the Subcontract Term as set forth in the then current Project Plan.

For purposes of this Allocation Of Work, a FTE is assumed to work 1,920 per contract year (160 hours per month), provided, however, that the actual number of hours shall be subject to the mutually agreed upon project plan and authorization from the Prime's Project Manager or his/her designee. Subcontractor agrees that the named Consultant listed below or any mutually agreed upon alternatives shall be made available to work at least 1,920 hours per contract year (160 hours per month) and shall not be reassigned to other projects or otherwise unavailable due to causes within Subcontractor's control. If a named or otherwise approved Consultant is not available to work for this number of hours due to reasons outside of Subcontractor's control, then Subcontractor shall have an obligation to provide an alternative Consultant of equal or better qualifications and experience to the Consultant that had been approved for the applicable position and that is acceptable to Prime and the Customer.

All Services shall be performed by Subcontractor in the continental United States and more specifically, either at Subcontractor's offices in Indiana, remotely, or at the Customer's location(s) in Indiana.

All other Sections of the RFP governing the products and/or services, as defined and described in Prime's Proposal to the Customer shall be performed by Prime, either by itself or through another subcontractor (collectively, the "Prime Allocation of Work").

2. TERM

Approximate dates that Subcontractor shall perform the Subcontractor Allocation of Work:

The dates of performance shall run for the duration of the initial term of the Prime Contract between the Prime and the Customer and any extensions thereof, unless otherwise specified in the then current Project Schedule which Prime shall share with Subcontractor. The estimated commencement date of the initial term of the Prime Contract shall be March 1, 2025 and the initial term shall be four (4) years, with the potential for two (2) one year (1) extensions. The foregoing dates of performance shall be subject to early termination provisions that would be set forth in the Subcontract.

It is anticipated that there will be a ten (10) month initial transition period, where Prime will be responsible for certain deliverables and will develop and manage plans to transfer services from the incumbent contractor. Following the initial transition period, Prime will take over M&O services, with the assistance of Subcontractor.

3. PRICING AND PAYMENT TERMS

During the Term, it is expected that Prime shall pay Subcontractor the percentage set forth in the State Of Indiana MBE/WBE Subcontractor Commitment Form (the "Percentage") identifying Subcontractor in Prime's Proposal submitted in response to the RFP, subject to the adjustment described in the following paragraphs.

In consideration of the foregoing commitment, Subcontractor shall be obligated to furnish personnel for project roles defined herein that meet the qualifications and experience required by Customer and Prime and for the number of hours described herein. If the Customer requires removal of any Subcontractor's personnel or if any of the Subcontractor personnel do not meet the requirements of the Prime Contract, then Subcontractor shall be obligated to provide replacement personnel of equal or better qualifications. Notwithstanding the foregoing, if Subcontractor fails to perform in accordance with the terms of the Allocation Of Work, Prime shall have the right to terminate this Allocation Of Work in whole or in part and Prime's obligation to pay Subcontractor the above Percentage shall be adjusted accordingly. In addition, if and to the extent Prime's WBE commitment to Subcontractor set forth in the Prime Contract changes, Prime shall communicate such change(s) to Subcontractor in writing and such change(s) shall become effective upon Subcontractor immediately with the same legal force and effect as an amendment between Prime and Subcontractor that is signed by the parties' duly authorized representatives.

The hourly rates, as set forth in the table below, are inclusive of travel and living ("T&L") expenses. New and/or replacement resources, if requested and mutually agreed upon by the parties through a future amendment, will be brought in at a negotiated rate based on the market at that time.

Notwithstanding the foregoing regarding the amount of Prime's WBE commitment to Subcontractor, Subcontractor shall invoice Prime on a monthly basis for all actual hours worked during the prior month. As such, Subcontractor may be entitled to invoice and Prime shall be obligated to pay for all hours worked even if the total amount payable over the Term exceeds the amount of Prime's WBE commitment to Subcontractor.

Each invoice shall include a Purchase Order number, description of the actual services and Deliverables provided by Subcontractor, broken down by Consultant. In addition to providing such a description, Subcontractor shall report the hours any of its Consultants work in the Prime time reporting system on a twice per month basis. Subcontractor's invoice(s) shall be payable by Prime within thirty (30) days after receipt of invoice, provided that the Customer has not withheld payment to Prime and provided further that Subcontractor is not in breach of this Agreement.

The Subcontract shall also provide that the price that Prime shall pay Subcontractor for the above services falling within the Subcontractor's Allocation of Work shall be as follows:

CONFIDENTIAL



Subject to Subcontractor providing the above staff during the Initial Term and Renewal Term, the total amount payable to Subcontractor shall be equal to thirteen point four percent (13.4%) of the total contract value of the Prime Contract (the "WBE Commitment Amount"), provided that if the parties agree to add staff, they shall do so in a written amendment for a new not to exceed amount that may or may not result in an adjustment to the WBE Commitment Amount. Should any of the above staff leave the Project, or are removed and a suitable replacement is not found or the replacement does not have the same qualifications and experience as the staff that has left or been removed from the Project, Prime shall be permitted to (a) pay a different rate than the rate that had been paid for the resource no longer working on the project, (b) subcontract with a different WBE to provide staff, and/or (c) adjust the WBE Commitment Amount.

Payment terms will be specified in the Subcontract but payment will be based upon Subcontractor providing monthly invoices for hours of Services provided in the prior calendar month with supporting detail. Subcontractor's invoice(s) shall be payable by Prime within thirty (30) days after receipt of invoice, provided that the Customer has not withheld payment to the Prime. All travel related expenses must be pre-approved by Prime. No overtime shall be billed to and paid by Prime unless Subcontractor has received written approval from the direct Prime supervisor assigned to Subcontractor by Prime.

The Acceptance Criteria for all Services shall be defined as part of the Project Plan that will be mutually agreed upon in writing among the Prime and Subcontractor.

4. WOMAN OWNED BUSINESS COMMITMENT

Subcontractor understands that its services and resources play an important and vital role in helping Optum meet its small business commitment, which is required during the term of the Prime Contract. For the duration of Subcontract, Subcontractor shall maintain its Indiana Certification as a woman owned business and provide appropriate documentation of such to Prime upon request. Additionally, all resources provided by Subcontractor shall be viewed as key personnel as between Optum and Subcontractor, where such resources cannot be removed from the project unless there is prior Optum written approval, and only if Subcontractor has replacement personnel that are subject to Optum's approval. Replacement personnel shall be at the same skill level and shall be at a mutually agreed upon rate based on the replacement personnel that must be approved by Optum for the applicable role. Should Subcontractor fail to perform or fill vacant roles in a timely manner, Optum may reduce its spend commitment to Subcontractor.

IN WITNESS WHEREOF, the Team Members hereto have caused this Appendix 1, Allocation of Work, inclusive of the pricing, to be executed by their authorized representatives as set forth below.

OPTUM GOVERNMENT SOLUTIONS, INC.

CRITICAL SKILLS, INC. D/B/A CSFRING

By: 
Jeffrey Grosklags (Jul 17, 2024 13:02 CDT)

By: 

Name: Jeffrey Grosklags
Title: Chief Financial Officer

Name: Cynthia Pizarro
Title: President

Date: 07/17/2024

Date: 07/16/2024

APPENDIX 2

SUBCONTRACTOR PROPOSAL INFORMATION

Subcontractor shall provide assistance to the Prime in its Proposal as follows:

1. Provide resumes and photos for all personnel from Subcontractor for consideration by Prime and if Prime and Subcontractor agree to use such personnel, for inclusion in the Proposal
2. Provide pricing-related information in order for the Prime to submit a compliant Cost Proposal under the RFP.
3. As further specified by Prime, provide information regarding Subcontractor's experience working with Prime and Customer, and providing services substantially similar to those under the RFP.
4. Be named as a subcontractor with a company bio in the Proposal.
5. Provide Subcontractor company information, as required, including but not limited to, FEIN, corporate address, and licenses and permits held.
6. Maintain Indiana Certification as a woman owned business and provide documentation to Prime.
7. WBE Certification Letter provided by IDOA, WBE Letter of Commitment on CSpring letterhead for the EDW (i.e., SSDW) scope of work, and any additional forms required for the Proposal.
8. If required, provide information about past contract performance, including termination of contracts for failure to perform and references.
9. Any additional information or assistance reasonably requested by the Prime or otherwise required by the RFP.

APPENDIX 3

FLOW DOWN PROVISIONS

Subcontractor shall provide the services described in Appendix 1 in accordance with, and subject to, compliance by Subcontractor with, those terms of the Contract that apply to the scope of such Services (the "Flow Down Provisions"), where such Flow Down Provisions shall be included in any Subcontract. Unless the context requires otherwise, references in the Contract to "Offeror," "Contractor," or "subcontractor" shall, for purposes of these Flow Down Provisions, be deemed to be references to "Subcontractor." References to "FSSA" or "Department" or "State" shall be deemed to be references to "Optum" or "Prime", unless the context requires that they instead be deemed to stay as references to FSSA, Department or the State, as set forth below. References to "contract" shall be deemed to be the Subcontract between Optum and Subcontractor.

For purposes of clarity, the Flow Down Provisions shall include the following provisions from the Contract that apply either to Subcontractor by virtue of the Subcontractor Allocation of Work or to Subcontractor in its capacity as a subcontractor.

RFP:

Conflict of Interest

Any person, firm or entity that assisted with and/or participated in the preparation of this solicitation document is prohibited from submitting a proposal to this specific solicitation. For the purposes of this solicitation, a "person" means a State officer, employee, special State appointee, or any individual or entity working with or advising the State or involved in the preparation of this solicitation proposal. This prohibition would also apply to an entity who hires, within a one-year period prior to the publication of this solicitation, a person that assisted with and/or participated in the preparation of this solicitation.

Sample Contract, Attachment B:

Access to Records.

The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

Assignment of Antitrust Claims.

As part of the consideration for the award of this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

Audits.

The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-11-1, et seq., and audit guidelines specified by the State.

The State considers the Contractor to be a "Contractor" under 2 C.F.R. 200.331 for purposes of this Contract. However, if it is determined that the Contractor is a "subrecipient" and if required by applicable

provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), Contractor shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 et seq.

Compliance with Laws.

- A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

- B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, et seq., IC § 4-2-7, et seq. and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.** If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

- C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

- D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

- E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall

not be subject to penalty or interest, except as permitted by IC § 5-17-5.

- F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC § 5-22-3-7:

(1) The Contractor and any principals of the Contractor certify that:

(A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:

- (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
- (ii) IC §24-5-12 [Telephone Solicitations]; or
- (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

(B) the Contractor will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

(2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

Confidentiality, Security and Privacy of Personal Information.

Definitions.

- 1) Personally Identifiable Information (“PII”) means personal information as collectively defined in IC-4-1-6-1 and IC 4-1-11-2 and under the National Institute of Standards and Technology (“NIST”) Special Publication 800-122, regardless of form (oral, written, electronic, or otherwise). As used here, PII includes PHI, SSA-data, and ACA-PII (as defined herein) as applicable, whether or not separately stated.
 - 2) Data Breach means the loss of control, compromise, unauthorized disclosure, unauthorized access or acquisition, or any similar occurrence where: a person other than an authorized user accesses or potentially accesses PII or other confidential information; or an authorized user accesses PII or other confidential information for other than an authorized purpose.
 - 3) Security Incident means an occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information the information system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.
 - 4) Confidential Information means information that is not publicly available under State or Federal laws, regulations, administrative code or rules, or as otherwise deemed confidential by the State.
 - 5) FedRAMP means the Federal Risk and Authorization Management Program.
 - 6) Terms used, but otherwise not defined in this Contract shall have the same meaning as those found in 45 CFR Parts 160, 162, and 164, and 45 CFR Subtitle A.
 - 7) “HIPAA” means the Health Insurance Portability and Accountability Act of 1996 (sections 1171 through 1179 of the Social Security Act), including any subsequent amendments to such Act.
 - 8) “HIPAA Rules” mean the rules adopted by and promulgated by the US Department of Health and Human services (“HHS”) under HIPAA and other relevant Federal laws currently in force or subsequently made, such as the Health Information Technology for Economic and Clinical Health Act (“HITECH”), as enumerated under 45 CFR Parts 160, 162, and 164, including without limitation any and all additional or modified regulations thereof. Subsets of the HIPAA Rules include:
 - a. “HIPAA Enforcement Rule” as defined in 45 CFR Part 160;
 - b. “HIPAA Security Rule” as defined in 45 CFR Part 164, Subparts A and C;
 - c. “HIPAA Breach Rule” as defined in 45 CFR Part 164, Subparts A and D; and
 - d. “HIPAA Privacy Rule” as defined in 45 CFR Part 164, Subparts A and E.
- B. If Contractor’s services under this Contract includes State authorized access to and use of PHI on the State’s behalf then Contractor is hereby deemed a Business Associate to the State and, as such, Contractor is hereby authorized by the State to create, receive, maintain, use, and/or transmit Protected Health Information (“PHI”) on the State’s behalf pursuant to and consistent with the services performed by Contractor under this Contract.
- C. Contractor is hereby authorized by the State to create, receive, maintain, use and/or transmit PII on the State’s behalf pursuant to and consistent with the services performed by Contractor under

this Contract. As used here, PII includes PHI, SSA-data, and ACA PII (as defined herein) as applicable, whether or not separately stated.

- D. Contractor understands that pursuant to and consistent with the services performed by Contractor under this Contract, Contractor may be permitted authorized access to data obtained by the State from the Social Security Administration (“SSA-data”). In this regard and to the extent that Contractor is permitted authorized access and use of SSA-data:
- 1) Contractor agrees that it will comply with the provisions of the Computer Matching and Privacy Protection Act Agreement (“CMPPA”) and the Information Exchange Agreement (“IEA”) executed between the Social Security Administration (“SSA”) and the State; these agreements are incorporated herein by reference and current copies of the CMPPA and IEA are attached to this Contract;
 - 2) Contractor further agrees that it will abide by all relevant Federal laws and restrictions on access, use, and disclosure of SSA-data, including the security requirements enumerated in the CMPPA and IEA;
 - 3) Contractor understands that its access, use, or disclosure of SSA-data in a manner or purpose not authorized by the CMPPA or IEA may subject Contractor, including Contractor’s employees, agents, and subcontractors, to civil and criminal sanctions pursuant to applicable Federal statutes; and,
 - 4) Contractor understands that the State, in compliance with the CMPPA, will undertake a review of Contractor’s compliance with Contractor’s obligations under the CMPPA, IEA, and this Contract no less than triennially; Contractor agrees to fully cooperate with the State in such reviews. Such reviews may be undertaken by the State in addition to or as part of other reviews of Contractor’s privacy and security policies, procedures, and practices undertaken by the State pursuant to this Contract.
- E. Contractor agrees that as a Business Associate to the State it is obligated to comply with the HIPAA Rules, as such Rules apply to Business Associates, throughout the term of this Contract and thereafter as may be required by Federal law and such compliance will be at Contractor’s sole expense. Further:
- 1) Contractor will not use or further disclose PHI or PII except as expressly permitted by this Contract or as required by law. It is further provided that nothing in this Contract shall be construed to permit Contractor use or disclose PHI in a manner that would violate the provisions of the HIPAA Privacy Rule as such Rule applies to the State with regard to the services performed by Contractor under this Contract or otherwise cause the State to be non-compliant with the HIPAA Privacy Rule.
 - 2) Contractor understands it must fully comply with the HIPAA Security Rule and will employ appropriate and compliant safeguards to reasonably prevent the use or disclosure of PHI and PII other than as permitted by this Contract or required by the HIPAA Privacy Rule or other applicable Federal or state law or regulation. Such safeguards will be designed, implemented, operated, and managed by Contractor at Contractor’s sole expense and following the Contractor’s best professional judgment regarding such safeguards. Upon the State’s reasonable request, Contractor will review such safeguards with the State.

- 3) Contractor understands that it is subject to the HIPAA Enforcement Rule under which Contractor may be subject to criminal and civil penalties for violations of and non-compliance with the HIPAA Rules.

F. Improper Disclosure, Security Incident, and Breach Notification.

- 1) As a Business Associate Contractor understands that it is subject to the HIPAA Breach Rule.
- 2) If a Security Incident occurs or if Contractor suspects that a Security Incident may have occurred with respect to PII in Contractor's safekeeping or as otherwise being legitimately used by Contractor in Contractor's performance of its services under this Contract:
 - a) Contractor shall notify the State of the Security Incident within twenty-four (24) hours of when Contractor discovered the Security Incident; such notification shall be made to the FSSA Privacy & Security Office in a manner reasonably prescribed by the FSSA Privacy & Security Officer and shall include as much detail as the Contractor reasonably may be able to acquire within the twenty-four (24) hour period.
 - b) For the purposes of such Security Incidents, "discovered" and "discovery" shall mean the first day on which such Security Incident is known to the Contractor or, by exercising reasonable diligence, would have been known to the Contractor. Regardless of whether the Contractor failed to exercise reasonable diligence, improperly delaying the notification of discovery beyond the twenty-four (24) hour requirement, the Contractor will notify the FSSA Privacy & Security Office within twenty-four (24) hours of gaining actual knowledge of a Security Incident.
 - c) In collaboration with the FSSA Privacy & Security Office, Contractor shall undertake all commercially reasonable efforts necessary to thoroughly investigate the Security Incident and to provide all results of such investigation to the FSSA Privacy & Security Office, including but not limited to Contractor personnel involved, source and cause of the Security Incident, specific information disclosed or possibly exposed, disclosure victims (those whose PII was disclosed or may have been disclosed or exposed to unauthorized access/use), disclosure recipients, supporting materials, actions taken to mitigate or stop the Security Incident, and similar details.
 - d) Contractor's investigation must be undertaken expeditiously and completed to the extent that a determination of whether a Breach has occurred can be reasonably made, including the identification of the victims or likely victims, within a reasonable timeframe as mutually agreed upon with the FSSA Privacy & Security Office, from the date of discovery of the Security Incident. Contractor shall provide details of its investigation to the FSSA Privacy & Security Office on an ongoing basis until the investigation is complete.
 - e) Contractor and the FSSA Privacy & Security Office will collaborate on the results of Contractor's investigation; the determination as to whether a Breach has occurred rests solely with the FSSA Privacy & Security Office.
 - f) If it is determined by the FSSA Privacy & Security Office that a Breach has occurred:

- I. Contractor agrees that it shall be responsible for, including all costs with respect to, fulfilling the State's and/or Contractor's obligations for notice to all of the known and suspected victims of the Breach. Such notice shall comply with the HIPAA Breach Rule notification requirements and/or applicable notification requirements under State law or regulation.
 - II. Contractor further agrees that such notification will be made under its name, unless otherwise specified by the FSSA Privacy & Security Office. Contractor will coordinate its Breach notification efforts with the FSSA Privacy & Security Office; the FSSA Privacy & Security Office will approve Contractor's Breach notification procedures and plans, including the format and content of the notice(s) prior to such notification being made.
 - III. Contractor accepts full responsibility for the Breach and any resulting losses or damages incurred by the State or any victim of the Breach.
 - IV. Contractor will undertake all commercially reasonable efforts necessary to mitigate any deleterious effects of the Breach for the known and suspected victims of the Breach.
 - V. The State, through the FSSA Privacy & Security Office, will make the appropriate notifications to HHS and/or the applicable Federal or State agencies with respect to the Breach, unless the Contractor is directed to do so by the FSSA Privacy & Security Office.
- g) Contractor will undertake commercially reasonable corrective actions to eliminate or minimize to the greatest degree possible the opportunity for an identified Security Incident to reoccur and provide the FSSA Privacy & Security Office with its plans, status updates, and written certification of completion regarding such corrective actions.
- 3) If Contractor observes or otherwise becomes aware of a Security Incident or suspected Security Incident outside of Contractor's scope of responsibilities under this Contract (for example, affecting PII not in Contractor's safekeeping), Contractor agrees to promptly report such Security Incidents to the FSSA Privacy & Security Office and cooperate with the FSSA Privacy & Security Office's investigation of the Security Incident.
- G. Subcontractors. Contractor agrees that in accordance with the HIPAA Privacy Rule, CMPPA, IEA, and 45 CFR §155.260 any subcontractors engaged by Contractor (in compliance with this Contract) that will create, receive, maintain, use or transmit State PII on Contractor's behalf will contractually agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such PII.
- H. Access by Individuals to their PHI/PII. Contractor acknowledges that in accordance with the HIPAA Privacy Rule and 470 IAC 1-3-1, *et seq.*, individuals for whom Contractor has direct possession of their PHI/PII on the State's behalf have the right to inspect and amend their PHI/PII, and have the right for an accounting of uses and disclosures of such PHI/PII, except as otherwise provided therein. Contractor shall provide such right of inspection, amendment, and accounting of disclosures to such individuals upon reasonable request by the State (or by such individuals if the State directly refers such individuals to Contractor). In situations in which

Contractor does not have direct possession of such PHI/PII, then the State shall be responsible for such inspection, amendment, and accounting of disclosures rights by individuals.

- I. Access to Records. Contractor shall make available to HHS and/or the State and/or other Federal agencies so authorized by law Contractor's internal practices, books, and records relating to the use and disclosure of PHI and PII provided to Contractor by the State or created, received, maintained, used, or transmitted by Contractor on the State's behalf. Contractor shall promptly inform the State by giving notice to the FSSA Privacy & Security Office of any request by HHS (or its designee), other State agencies, or other Federal agencies for such internal practices, books, and/or records and shall provide the State with copies of any materials or other information made available to such agencies.
- J. Return of Protected Health Information. Upon request by the State or upon termination of this Contract, Contractor will, at the State's sole option, either return or destroy all copies of any PHI or PII provided to Contractor by the State, including PHI or PII created, received, maintained, used or transmitted by Contractor on the State's behalf and Contractor shall warrant in writing that it has returned or destroyed such PHI and/or PII. Further, upon termination of this agreement Contractor will not retain any copies of any such PHI and PII and shall warrant same in writing.
- K. At the sole discretion of the State, the State may terminate this Contract for Contractor's material breach of this Section.
- L. Contractor agrees to participate in a disaster recovery plan, as appropriate to the Contractor's services, as determined by the State to be necessary to uphold integral business functions in the event of an unforeseen disaster.
- M. Drug and Alcohol Records. In the performance of the services under this Contract, Contractor may have access to confidential information regarding alcohol and drug abuse patient records. Contractor agrees that such information is confidential and protected information and promises and assures that any such information, regardless of form, disclosed to Contractor for the purposes of this Contract will not be disclosed or discussed with others without the prior written consent of the State. The Contractor and the State will comply with the applicable requirements of 42 CFR Part 2 and any other applicable Federal or state law or regulatory requirement concerning such information. The Contractor will report any unauthorized disclosures of such information in compliance with this Section.
- N. Confidentiality of State Information. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon, or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by Contractor for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this Section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses

for which it is liable under the terms of this Contract. The Contractor shall report any unauthorized disclosures of Social Security numbers to the FSSA Privacy & Security Office within one (1) business day of the date of discovery in accordance with this Section.

- O. Contractor will indemnify and hold the State harmless from any loss, damage, costs, expense, judgment, sanction or liability, including, but not limited to, attorneys' fees and costs, that the State incurs or is subject to, as a result of a breach of this Section by the Contractor or any subcontractor, agent or person under Contractor's control. In the event a claim is made against the State for any such claim, cause of action, liability, damage, cost or expense, State may, at its sole option: (i) tender the defense to Contractor, who shall provide qualified and competent counsel to represent the State interest at Contractor's expense; or (ii) undertake its own defense, utilizing such professionals as it deems reasonably necessary, holding Contractor responsible for all reasonable costs thereof. In any event, the State shall have the sole right to control and approve any settlement or other compromise of any claim brought against it that is covered by this Section.
- P. Contractor shall adhere to all relevant FSSA Security Policies for any related activities provided to FSSA under this Contract. Contractor is responsible for verifying that any subcontractors they engage will also comply with these policies. Any exceptions to these policies require written approval from the FSSA Privacy & Security Office.
- Q. Access to FSSA and/or State Information Systems.
 - 1) "FSSA and/or State Information Systems" means all computing hardware and related components, all computer software and related components, all network devices and related functions, and data owned by, licensed to, in the legal custody of, and/or operated by FSSA and/or the State.
 - 2) If the Contractor, in the performance of Contractor's services under this Contract, is authorized and granted by the State with access to FSSA and/or State Information Systems:
 - a) Contractor agrees that it and all members of its workforce (as used here, "workforce" means employees, volunteers, interns, trainees, (sub)contractors, and other persons whose conduct is under the control of Contractor) performing such services will comply with all FSSA and State Privacy and Security Policies and Procedures.
 - b) All members of Contractor's workforce who are or will be granted access to FSSA and/or State Information Systems will undertake and certify completion of all FSSA and State mandated privacy and security training following a schedule reasonably required by FSSA and the State (e.g., upon new hire/assignment and annually thereafter).
 - c) All members of Contractor's workforce who are or will be granted access to FSSA and/or State Information systems will agree in writing or through electronic confirmation to the rules of behavior regarding access to and use of FSSA and/or State information systems; such rules of behavior include, but are not limited to the State Information Technology Resources User Policy ("ITR").
 - d) All members of Contractor's workforce who are or will be granted access to the FSSA Division of Family Resources ("DFR") eligibility and enrollment systems, a

subset of FSSA Information Systems as defined by DFR, will agree in writing or through electronic confirmation to the DFR Rules of Behavior.

- e) Such training and rules of behavior agreement(s) will be coordinated with Contractor by the FSSA Privacy and Security Office and the Indiana Office of Technology (“IOT”).
- f) Any members of Contractor’s workforce who fail to complete the required training as described above within the scheduled timeframes or who fail to agree to the rules of behavior will not be permitted to access FSSA and/or State information systems.
- g) Access to and usage of FSSA and/or State Information Systems is controlled through role-based access privileges and follows the principle of least privilege, meaning users are granted access to/usage of only the minimum amount of information and system functions necessary to perform their role or job assignment. As such, FSSA or its designee will provide Contractor with a list of roles it deems necessary for Contractor to perform the services; Contractor will identify each individual workforce member who requires access to/usage of FSSA and/or State Information Systems and the role to be assigned to each individual. Contractor will certify in writing that the role assigned to each individual workforce member is necessary and appropriate for the individual to perform their job assignment with respect to the performance of Contractor’s services under this Contract.
- h) FSSA will authorize and grant Contractor workforce member access privileges based on the requested and certified role in a timely manner; FSSA and IOT reserve the right to withdraw such authorization for any workforce member, with or without cause, at any time and without prior notice.
- i) Contractor agrees to notify the FSSA Privacy and Security Office or its designee within twenty-four (24) hours of any workforce member terminations or changes in workforce member assignment that would affect their need for access or role.
- j) Contractor agrees that it is solely responsible for the actions, including errors and omissions, intentional misconduct, or malfeasance of its workforce members with respect to their access to and usage of FSSA and/or State Information Systems.
- k) The FSSA Privacy and Security Office (or its designee) and Contractor will collaborate on the methods and means to identify workforce members requiring access, certification, changes, and other communications under this subsection.

R. 45 CFR §155.260 Compliance.

- 1) FSSA participates in a PII data exchange with the Centers for Medicare and Medicaid services (“CMS”) mandated under the Affordable Care Act (“ACA”, Public Law 111-148). The receipt of PII data from CMS through this data exchange (“ACA PII”) is in support of the determination of eligibility for healthcare coverage for individuals, which is a primary function of DFR. DFR is designated as the Administering Entity on behalf of FSSA under a computer matching agreement with CMS and, per the terms of that agreement, is obligated to comply with the provisions of 45 CFR §155.260 and §155.280 regarding the privacy and

security of ACA PII and that such compliance will be achieved through the application of the privacy and security standards and obligations established in the Minimum Acceptable Risk Standards for Exchanges (“MARS-E”) promulgated by CMS, including any subsequent versions issued by CMS.

- 2) 45 CFR §155.260(b)(2)(v) requires DFR on behalf of FSSA to bind all downstream entities with which ACA PII is shared to same privacy and security standards and obligations that DFR is obligated to comply with, subject to the provisions under 45 CFR §155.260(b)(3) and in compliance with the monitoring provisions under 45 CFR §155.280.
- 3) In this regard (pursuant to the immediately preceding):
 - i. Contractor understands that in the performance of its services under this Contract Contractor will be given access to and usage of ACA PII to the extent necessary to perform such services; such access and usage of ACA PII is hereby authorized by the State.
 - ii. Contractor agrees that such ACA PII is subject to the same provisions of this Section as apply to PII and PHI, including but not limited to subsection F Improper Disclosure, Security Incident, and Breach Notification.
 - iii. Contractor further agrees that it will employ privacy and security standards over such ACA PII that are consistent with and being at least as protective as the privacy and security standards employed by DFR as described in paragraph 1) above taking into consideration: (i) the environment in which the Contractor is operating; (ii) whether specific standards are relevant and applicable to the Contractor’s duties and activities in the performance of the services; and, (iii) existing legal requirements to which Contractor is bound in relation to its administrative, technical, and operational controls and practices, including but not limited to, its existing data handling and information technology processes and protocols.
 - iv. Contractor additionally agrees that the privacy and security standards it employs over ACA PII will be consistent with the principles established in 45 CFR §155.260(a)(3) and that Contractor will bind any subcontractors with authorized access to ACA PII to the same or at least as protective as the privacy and security standards Contractor employs over ACA PII.
 - v. Contractor agrees that it will comply with the applicable provisions under 45 CFR §155.260 as a non-exchange entity; specifically, Contractor will comply with the MARS-E 2.2 privacy and security control requirements and with any subsequent versions of those control requirements promulgated by CMS with Contractor’s compliance with those subsequent versions to be achieved by the compliance date established by CMS in such subsequent versions.

Debarment and Suspension.

- A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department,

agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

- B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

Drug-Free Workplace Certification.

As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them 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 violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

Employment Eligibility Verification.

As required by IC § 22-5-1.7, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:

- A. The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.
- B. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.
- C. The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

Force Majeure.

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

Indemnification.

The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State will not provide indemnification to the Contractor.

Independent Contractor; Workers' Compensation Insurance.

The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

Information Technology Enterprise Architecture Requirements.

If this Contract involves information technology-related products or services, the Contractor agrees that all such products or services are compatible with any of the technology standards found at <https://www.in.gov/iot/2394.htm> that are applicable, including the assistive technology standard. The State may terminate this Contract for default if the terms of this paragraph are breached.

The Contractor specifically agrees that all hardware, software and services provided to or purchased by FSSA will comply with the privacy and security standards enumerated in the current version of the Minimum Acceptable Risk Standards for Exchanges (MARS-E) promulgated by the US Department of Health and Human Services Centers for Medicare & Medicaid Services (CMS). CMS will publish future versions of MARS-E and the Contractor agrees, at its sole expense, to modify all hardware, software, and services provided under this agreement to be compliant with such future versions within the timeframe mandated by CMS.

Insurance.

A. The Contractor and its subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

- 1) Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.

- 2) Automobile liability for owned, non-owned and hired autos with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.
- 3) Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract.
- 4) Fiduciary liability if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others with limits no less than \$700,000 per cause of action and \$5,000,000 in the aggregate.
- 5) Valuable Papers coverage, if applicable, with an Inland Marine Policy Insurance with limits sufficient to pay for the re-creation and reconstruction of such records.
- 6) Surety or Fidelity Bond(s) if required by statute or by the agency.
- 7) Cyber Liability addressing risks associated with electronic transmissions, the internet, networks and informational assets, and having limits of no less than \$700,000 per occurrence and \$5,000,000 in the aggregate.

The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage meeting all statutory requirements of IC § 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana. All insurance documents are to be sent electronically to insurancedocuments.fssa@fssa.in.gov.

B. The Contractor's insurance coverage must meet the following additional requirements:

- 1) The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
- 2) Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
- 3) The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.

- 4) The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
- 5) The Contractor waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana.

Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

Licensing Standards.

The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

Nondiscrimination.

Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). The Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

The State is a recipient of federal funds, and therefore, where applicable, the Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

Ownership of Documents and Materials.

All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of this

Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State. If ownership interest in the Materials cannot be assigned to the State, the Contractor grants the State a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials.

Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by the State and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the State full, immediate, and unrestricted access to the Materials and to Contractor's work product during the term of this Contract.

Public Record.

The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and will post this Contract on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

Waiver of Rights.

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

Work Standards.

The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

Federally Required Clauses.

The Contractor must comply with the following provisions:

A. Executive Order 11246, entitled "Equal Employment Opportunity," as supplemented by the Department of Labor Regulations (41 CFR Part 60): The Executive Order prohibits, among other things,

federal contractors and federally assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

Contractor will compile data, maintain records, and submit reports as required to permit effective enforcement of nondiscrimination laws, regulations, policies, instructions, and guidelines. This agreement permits authorized USDA personnel to review such records, books, and accounts as needed during hours of program operation to ascertain compliance.

B. The Clean Air Act, Section 306:

a. No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.

b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).

c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

C. The Clean Water Act:

a. No Federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:

- i. requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and
- ii. setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

e. The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

f. (1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section. (2) In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

D. The Anti-Lobbying Act: This Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the applicant certifies that:

- a. 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 making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;
- b. 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 federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

E. Americans with Disabilities Act: This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.

F. Drug Free Workplace Statement: The Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:

- a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace.
- b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
- c. Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.
- d. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the Indiana Family and Social Services Administration that abuse of this drug will also not be tolerated in the workplace.
- e. Contractors of federal agencies are required to certify that they will provide drugfree workplaces for their employees.

G. Debarment, suspension, and other responsibility matters: As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110.

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

b. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

H. The federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes, the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant or any rights of copyright to which a contractor purchases ownership

I. Civil Rights Compliance and Enforcement Assurance

a. The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

Additional Terms and Conditions, Attachments B1, B2, B3

Data Ownership: The State owns all rights, title, and interest in the Data. The contractor shall not access State user accounts or Data, except: (1) in the normal course of data center operations; (2) in response to Service or technical issues; (3) as required by the express terms of this contract, applicable Statement of Work, or applicable Service Level Agreement; or (4) at the State's written request.

Contractor shall not collect, access, or use Data except as strictly necessary to provide Service to the State. No information regarding State's use of the Service may be disclosed, provided, rented, or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. This obligation shall survive and extend beyond the term of this contract.

Data Protection: Protection of personal privacy and Data shall be an integral part of the business activities of the contractor to ensure there is no inappropriate or unauthorized use of Data at any time. To this end, the contractor shall safeguard the confidentiality, integrity, and availability of Data and shall comply with the following conditions:

- a. The contractor shall implement and maintain appropriate administrative, technical, and organizational security measures to safeguard against unauthorized access, disclosure, or theft of Data. Contractor shall implement and maintain heightened security measures with respect to Encrypted Data. Such security measures shall be in accordance with Indiana Office of Technology practice and recognized industry practice, including but not limited to the following:
 1. Information Security Framework; and
 2. Indiana Office of Technology Cloud Product and Service Agreements, Standard ID: IOT-CS-SEC-010.
- b. All Encrypted Data shall be subject to controlled access. Any stipulation of responsibilities shall be included in the Statement of Work and will identify specific roles and responsibilities.
- c. The contractor shall encrypt all Data at rest and in transit. The State may, in the Statement of Work, identify Data it deems as that which may be publicly disclosed that is not subject to encryption. Data so designated may be maintained without encryption at rest and in transit. The level of protection and encryption for all Encrypted Data shall meet or exceed that required in the Information Security Framework.
- d. At no time shall any Data or processes — that either belong to or are intended for the use of State — be copied, disclosed, or retained by the contractor or any party related to the contractor for subsequent use in any transaction that does not include the State.
- e. The contractor shall not use any information collected in connection with the Services for any purpose other than fulfilling its obligations under the contract.

Data Location: Storage of Data at rest shall be located solely in data centers in the United States and the contractor shall provide its Services to the State and its end users solely from locations in the United States. The contractor shall not store Data on portable devices, including personal laptop and desktop computers. The contractor shall access Data remotely only as required to provide technical support. The contractor shall provide technical user support on a 24/7 basis unless specified otherwise in the Service Level Agreement.

Notice Regarding Security Incident or Data Breach:

- a. Incident Response: contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries, and seeking external expertise as mutually agreed upon, defined by law, or contained in the contract. Discussing Security Incidents and Data Breaches with the State must be handled on an urgent basis, as part of contractor's communication and mitigation processes as mutually agreed upon in the Service Level Agreement, contained in the contract, and in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.
- b. Security Incident Reporting Requirements: The contractor shall report a Security Incident to the State-identified contact(s) as soon as possible by telephone and email, but in no case later than two (2) days after the Security Incident occurs. Notice requirements may be clarified in the

Service Level Agreement and shall be construed in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.

c. **Data Breach Reporting Requirements:** If a Data Breach occurs, the contractor shall do the following in accordance with IC 4-1-11 and IC 24-4.9 as they may apply: (1) as soon as possible notify the State-identified contact(s) by telephone and email, but in no case later than two (2) days after the Data Breach occurs unless a shorter notice period is required by applicable law; and (2) take commercially-reasonable measures to address the Data Breach in a timely manner. Notice requirements may be clarified in the Service Level Agreement. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

Responsibilities Regarding Data Breach: This section applies when a Data Breach occurs with respect to Encrypted Data within the possession or control of the contractor.

a. The contractor shall: (1) cooperate with the State as reasonably requested by the State to investigate and resolve the Data Breach; (2) promptly implement necessary remedial measures, if necessary; and (3) document and provide to the State responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the Services, if necessary.

b. Unless stipulated otherwise in the Statement of Work, if a Data Breach is a result of the contractor's breach of its contractual obligation to encrypt Data or otherwise prevent its release as reasonably determined by the State, the contractor shall bear the costs associated with: (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators, or others required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (3) a credit monitoring service required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (4) a website or a toll-free number and call center for affected individuals required by federal and/or state law — all of which shall not amount to less than the average per-record per-person cost calculated for data breaches in the United States (in, for example, the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the Data Breach); and (5) complete all corrective actions as reasonably determined by contractor based on root cause and on advice received from the Indiana Office of Technology. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

Notification of Legal Requests: If the contractor is requested or required by deposition or written questions, interrogatories, requests for production of documents, subpoena, investigative demand or similar process to disclose any Data, the contractor will provide prompt written notice to the State and will cooperate with the State's efforts to obtain an appropriate protective order or other reasonable assurance that such Data will be accorded confidential treatment that the State may deem necessary.

Termination and Suspension of Service:

a. In the event of a termination of the contract, the contractor shall implement an orderly return of Data in a mutually agreeable and readable format. The contractor shall provide to the State any information that may be required to determine relationships between data rows or columns. It shall do so at a time agreed to by the parties or shall allow the State to extract its Data. Upon confirmation from the State, the contractor shall securely dispose of the Data.

b. During any period of Service suspension, the contractor shall not take any action that results in the erasure of Data or otherwise dispose of any of the Data.

c. In the event of termination of any Services or contract in its entirety, the contractor shall not take any action that results in the erasure of Data until such time as the State provides notice to contractor of confirmation of successful transmission of all Data to the State or to the State's chosen vendor.

During this period, the contractor shall make reasonable efforts to facilitate the successful transmission of Data. The contractor shall be reimbursed for all phase-out costs (i.e., costs incurred within the agreed period after contract expiration or termination that result from the transfer of Data or other information to the State). A reimbursement rate shall be agreed upon by the parties during contract negotiation and shall be memorialized in the Statement of Work. After such period, the contractor shall have no obligation to maintain or provide any Data and shall thereafter, unless legally prohibited, delete all Data in its systems or otherwise in its possession or under its control. The State shall be entitled to any post-termination assistance generally made available with respect to the Services, unless a unique data retrieval arrangement has been established as part of a Service Level Agreement.

d. Upon termination of the Services or the contract in its entirety, contractor shall, within 30 days of receipt of the State's notice given in 7(c) above, securely dispose of all Data in all of its forms, including but not limited to, CD/DVD, backup tape, and paper. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the State upon completion.

Background Checks: The contractor shall conduct a Federal Bureau of Investigation Identity History Summary Check for each employee involved in provision of Services: (1) upon commencement of the contract; (2) prior to hiring a new employee; and (3) for any employee upon the request of the State. The contractor shall not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to one (1) year is an authorized penalty. The contractor shall promote and maintain an awareness of the importance of securing the State's information among the contractor's employees, subcontractors, and agents. If any individual providing Services under the contract is not acceptable to the State, in its sole opinion, as a result of the background or criminal history investigation, the State, in its sole option shall have the right to either: (1) request immediate replacement of the individual; or (2) immediately terminate the contract, related Statement of Work, and related Service Level Agreement.

Contract Audit: The contractor shall allow the State to audit conformance to the contract terms. The State may perform this audit or contract with a third party at its discretion and at the State's expense.

Non-disclosure and Separation of Duties: The contractor shall enforce role-based access control, separation of job duties, require commercially-reasonable nondisclosure agreements, and limit staff knowledge of Data to that which is absolutely necessary to perform job duties. The contractor shall annually provide to the State a list of individuals that have access to the Data and/or the ability to service the systems that maintain the Data.

Import and Export of Data: The State shall have the ability to import or export Data in piecemeal or in entirety at its discretion, with reasonable assistance provided by the contractor, at any time during the term of contract. This includes the ability for the State to import or export Data to/from other parties at the State's sole discretion. Contractor shall specify in the Statement of Work if the State is required to provide its' own tools for this purpose, including the optional purchase of contractor's tools if contractor's applications are not able to provide this functionality directly.

Subcontractor Disclosure: Contractor shall identify all of its strategic business partners related to Services, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the contractor, and who may be involved in any application development and/or operations. The contractor shall be responsible for the acts and omissions of its subcontractors, strategic business partners, or other entities or individuals who provide or are involved in the provision of Services.

Compliance with Accessibility Standards: The contractor shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973, or any other state laws or administrative regulations identified by the State.

RFP 24-78424 – Enterprise Decision Support Solutions (EDSS) – Enterprise Data Warehouse (EDW)

Attachment A

Vendor: **eSense Incorporated**

1. Letter of Commitment
2. Indiana MBE Certification
3. Letter of Agreement



July 16, 2024

Jeffrey Grosklags
Corporate VP, Finance & Accounting
Optum Government Solutions, Inc.
11000 OPTUM CIR
Eden Prairie, MN 55344

Re: Subcontractor Letter of Commitment in Connection with the EDW Scope Work Required under the Indiana Request for Proposal 24-78424 for Enterprise Decision Support Solutions (EDSS)

Dear Mr. Grosklags,

eSense Incorporated (“eSense”) is an Indiana certified Minority Business Enterprise and is pleased to participate as a subcontractor to Optum Government Solutions, Inc. (“Optum”), in connection with performing some of the EDW Scope required under the above captioned Request for Proposal issued by the Indiana Department of Administration on behalf of the Indiana Family and Social Services Administration (the “State”) for EDSS.

By this letter eSense hereby acknowledges the following details that are set forth in a Letter of Agreement between eSense and Optum for the bid being submitted by Optum to the State in response to the EDW Scope required under this RFP.

Subcontract Amount as a Percentage of the Total Bid Amount for the EDW Scope: 4.8%

Subcontract Amount in Total Dollars: \$3,013,795.00

Description of Products and/or Services to be Provided on this Project:

As a subcontractor to Prime Contractor Optum Government Solutions, Inc., eSense will provide skilled IT staffing for the Indiana EDSS project. eSense will provide staffing in accordance with the proposed Optum staffing plan and RFP #24-78424, EDW Scope including the following roles: Quality Coordinator, Data Engineer, BI Modeler, Data Analyst, and Cognos Administrator.

Approximate Date the Subcontractor Will Perform Work on this Contract:

eSense shall provide the services described above throughout the Initial Term, as defined below (and if renewed, throughout the Renewal Term, as defined below) of the Contract between Optum and the State that will result from Optum’s Proposal for the EDW Scope required under the RFP if the State awards such a Contract (the “Prime Contract”) to Optum. The estimated commencement date of the initial term of the Prime Contract shall be March 1, 2025, and the initial term shall be four (4) years, with the potential for two (2) one year (1) extensions. The foregoing dates of performance by eSense shall be subject to early termination provisions that would be set forth in the Subcontract between eSense and Optum.



eSense is willing to carry out its responsibilities under this proposal and looks forward to providing the above services for the benefit of the State as a subcontractor to Optum for the EDW Scope on this important project.

Sincerely,

Sanjay Vaze
President



STATE OF INDIANA

Eric J. Holcomb, Governor

DEPARTMENT OF ADMINISTRATION
Division of Supplier Diversity

Indiana Government Center South
402 West Washington Street, Room W462
Indianapolis, IN 46204
(317) 232 - 3061

June 14, 2024

Mr. Sanjay Vaze
Esense Incorporated
14799 Daventry Drive
Fishers, IN 46037

Subject: Application for MBE Certification

Dear Mr. Vaze,

Congratulations! The Indiana Department of Administration, Division of Supplier Diversity is pleased to inform you that **Esense Incorporated** is hereby certified as a Minority Business Enterprise (MBE).

Your company provides a commercially useful function in the areas listed below. Only work performed in these areas will be counted towards Minority Business Enterprise participation:

UNSPSC CODE(S)

<i>Code</i>	<i>Description</i>
43200000	Components for information technology or broadcasting or telecommunications
80000000	Management and Business Professionals and Administrative Services
80101600	Project management
80111504	Labor training or development
80111608	Temporary information technology software developers
80111609	Temporary information technology systems or database administrators
80111610	Temporary information technology networking specialists
80111616	Temporary customer service personnel
80111701	Staff recruiting services
80111707	Permanent technical staffing needs
80111711	Permanent information technology software developers
80111712	Permanent information technology networking specialists
80111713	Permanent information technology systems or database administrators
80111716	Permanent information technology staffing needs

Referencing: Esense Incorporated

80161500	Management support services
81110000	Computer services
81111800	System administrators
86101800	In service training and manpower development

On September 13, 2010, the Governor's Commission on Supplier Diversity approved the department's effort to streamline its recertification process. Instead of conducting an onsite visit to each company seeking recertification, the department now has the discretion to waive the visit after a thorough review of the company's file and recertification documents. We have approved your recertification and it is valid through **June 30, 2027**. Please note that IDOA continues to reserve the right to conduct a site visit or phone interview at any time with certified companies.

Although your certification is valid for three years, you are required to submit an annual *Affidavit of Continued Eligibility (ACE)* form year. Instructions on how to receive and complete this form can be located at <https://www.in.gov/idoa/mwbe/minority-and-womens-business-enterprises/certify-your-business/>. Please remember that you must notify us immediately if any changes occur. Failure to notify us of changes or to provide an ACE form annually will result in the revocation of your certification. Changes include, but are not limited to, changes in location, contact information, ownership, and control.

We encourage you to visit IDOA's procurement website, www.in.gov/idoa/2464.htm, and update your Business Registration Profile. You must review and update your profile regularly, because state purchasing agents and prime contractors may use this information to contact you for business opportunities.

While this letter serves as notification of certification, it does not serve to prove continued eligibility. Please visit <https://www.in.gov/idoa/mwbe/2743.htm> to verify your certification status. Please contact our office at (317) 232-3061 or mwbe@idoa.in.gov if you have any other questions or concerns about your letter.

Sincerely,

Peter Sobun

Peter Sobun, Director of Certification
Indiana Department of Administration
Division of Supplier Diversity

PS/aw

LETTER OF AGREEMENT
EDW SCOPE

This **LETTER OF AGREEMENT**, made and entered into this 14th day of July, 2024 (the “Effective Date”), by and between Optum Government Solutions, Inc. having a place of business at 11000 Optum Circle, Eden Prairie, Minnesota 55344 (hereinafter “Optum” “Team Leader” or “Prime”), and eSense Incorporated, having a principal place of business at 14799 Daventry Drive, Fishers, IN 46037 (hereinafter “Team Member” or “Subcontractor”).

WHEREAS, the Team Leader and Team Member (hereinafter sometimes collectively referred to as “Team Members” or the “Parties”) are interested in responding to Request for Proposal 24-78424 from the Indiana Department of Administration on behalf of the Family and Social Services Administration (“IN FSSA” or the “Customer”) for Enterprise Decision Support Solutions (EDSS) dated April 19, 2024, as amended (the “RFP”), where such RFP is soliciting the submission of proposals from qualified bidders to provide certain Products and/or Services described herein;

WHEREAS, the Team Members believe that a cooperative effort between them with respect to submitting a proposal for the Project under which the Prime would purchase from the Subcontractor and the Subcontractor would supply to the Prime for resale to the Customer certain services defined herein (the “Services”) will offer the Customer the best combination of capabilities to achieve optimum performance, cost, and delivery for the RFP requirements applicable to the Products and/or Services;

WHEREAS, the Team Members desire to collaborate in preparing a proposal in response to the RFP (“Proposal”) and to set forth their intent on the scope of work to be subcontracted by Prime to Subcontractor and the price to be paid by Prime to Subcontractor under an eventual Subcontract if the Customer accepts Prime’s Proposal and the Team Leader and Customer enter into a Prime Contract, as defined below;

NOW, THEREFORE, in consideration of the foregoing premises, the Team Members hereby agree as follows:

1. **General Undertaking.** The allocation of work schedule set forth in Appendix 1 (“Allocation of Work”) sets forth a general statement of the responsibilities of the Team Members with respect to the proposal effort in response to the RFP and the pricing for all products and/or services to be provided by Subcontractor pursuant to the RFP if the prime contract (“Prime Contract”) is awarded to the Prime. Any amendment to such Allocation of Work shall only be binding on the Team Members under the terms and conditions of this Agreement if signed by the authorized representatives of the Team Members. If the Prime is awarded the Prime Contract by the Customer and the Customer approves the Prime’s use of Subcontractor as a supplier for the products and/or services described in the Allocation of Work, then the Prime may, in its sole discretion, award a subcontract (“Subcontract”) to Team Member in accordance with Section 4 of this Agreement. The Allocation of Work referenced in Section 4 of this Agreement (attached at Appendix 1), and Appendices 2 and 3, shall be used as the basis for negotiation of a Subcontract which will govern the sale by Subcontractor and purchase by Prime of the Subcontractor’s Products and/or Services described in such Allocation of Work and Statement of Work.
2. **Allocation of Responsibilities.** Prime shall: (i) be the primary point of contact with Customer regarding the RFP; (ii) submit the Proposal to the RFP; (iii) be responsible for taking the lead role in conducting any required negotiations with respect to the Prime Contract; and (iv) shall enter into the Prime Contract with Customer.

3. Proposal Preparation. Prime shall: (i) take principal charge of preparing and submitting any Proposal in the response to the RFP; (ii) direct and coordinate all contacts with the Customer pertaining to the preparation of the Proposal to the RFP; (iii) have the final authority for the preparation, evaluation, and submission of the Proposal to the Customer; and (iv) be responsible for directing and coordinating any requests for additional information from the Customer prior to the award of a Prime Contract or the rejection of the Proposal. Subcontractor agrees that Appendix 2 sets forth some of the information required by Prime for inclusion in the Proposal (“Subcontractor Proposal Information”). Subcontractor shall provide Prime with information necessary for Prime to respond to a Proposal or other requests for information from the Customer after the submission of the Proposal within the time constraints imposed by Prime, subject to the condition that Subcontractor is given notice by the Prime with respect to any deadline for a response imposed by Prime or the Customer.
4. Award of Subcontract. Upon award of a Prime Contract to Prime under the RFP, the Team Members agree to negotiate in good faith, within thirty (30) days, a mutually acceptable subcontract, which shall set forth the general terms of the subcontract relationship and shall be substantially consistent with this Agreement, the Proposal, the Allocation of Work, and the Prime Contract (the “Subcontract”). As part of the foregoing commitment, Subcontractor acknowledges and agrees that based on the RFP, the Subcontract shall contain provisions consistent with the Prime’s obligations pursuant to the Prime Contract as such obligations related to the Subcontractor’s Allocation of Work (the “Flow Down Provisions”), which are set forth in Appendix 3 to this Agreement. In the event that the Team Members are unable to agree upon the terms and conditions of the Subcontract within thirty (30) days of the date the Customer has awarded the Prime Contract to Prime, Prime may, in its sole discretion, terminate this Agreement, including the Allocation of Work pursuant to Section 18, and Prime may immediately contract with a third party to perform the tasks referred to in the Allocation of Work.
5. Exclusivity. Subcontractor hereby agrees to partner solely with Prime in connection with the RFP and shall not submit a proposal to the RFP, whether as a prime contractor or as a subcontractor to another party, regardless of tier, other than as a subcontractor to Prime for as long as this Agreement remains in effect.
6. Costs and Expenses. Each party shall bear all costs and expenses incurred by it in preparing its part of the Proposal and managing its responsibilities under the Proposal contemplated by this Agreement.
7. Confidential Information. The parties acknowledge the existence of a Mutual Non-Disclosure Agreement between Subcontractor and Prime’s affiliate, Optum Services, Inc. effective August 22, 2016 (the “NDA”). The parties agree that the NDA shall govern the exchange of information pursuant to this Agreement, and the NDA may not be terminated by either party until after expiration or termination of this Agreement, notwithstanding anything contrary set forth herein.
8. Injunctive Relief. The Team Members acknowledge that violation by one party of the provisions of Section 7 (“Confidential Information”) would cause irreparable harm to the other party not adequately compensable by monetary damages. In addition to other relief, it is agreed that either party may seek injunctive relief without necessity of posting bond to prevent any actual or threatened violation of such provisions.
9. Warranties.
 - (a) Noninfringement. Each party represents and warrants that its participation in the Proposal

effort and the content contributed by it to the Proposal or pursuant to any performance in connection with the Prime Contract will not infringe or misappropriate any copyright, patent, trade secret or other intellectual property right of any third party.

- (b) Disclaimer. PRIME MAKES NO WARRANTY OR ASSURANCE AS TO THE SUCCESS OF ANY PROPOSAL, AND PRIME DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES WITH RESPECT TO ANY PROPOSAL EFFORT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10. Indemnification.

- (a) Subcontractor agrees to indemnify, defend, and hold harmless the Prime or Customer from any and all claims, demands, or actions alleging that the material, information, product or work product resulting from products and/or services furnished by the Subcontractor to the Prime hereunder or furnished by the Subcontractor to a Customer, infringes a patent, copyright, trade secret or other intellectual property right of a third party. If such claim has occurred or, in the Subcontractor's judgment, is likely to occur, the Prime agrees to allow the Subcontractor at Subcontractor's option to procure the right for the Prime or the Customer to continue to use the infringing material, information, product or work product resulting from services in accordance with the terms hereof, or to replace or modify the same so as to render it non-infringing.
- (b) The foregoing indemnities shall be contingent upon the following: the Prime shall: (1) give prompt written notice to Subcontractor of any claim, demand, or action for which indemnity is sought, (2) fully cooperate in the defense or settlement of any such claim, demand, or action, and (3) obtain the prior written agreement of the Subcontractor with respect to any settlement or proposal of settlement (which agreement shall not unreasonably be withheld).

11. Limitation of Liabilities. In no event shall either party be liable to the other for any incidental, special, exemplary, or consequential damages, including, without limitation, lost profits, even if such party has been advised of the possibility of such damages.

12. Compliance with Laws. Neither party shall take any action in furtherance of the Proposal effort or other activities contemplated hereunder, which is illegal under United States law or any other applicable law, rule or regulation ("Laws"). If a party violates any Laws in connection with the Proposal, such party shall indemnify and hold harmless the other party from all loss, damage and attorney fees arising from any claim relating to such violation.

13. Notices. Notices sent to either party shall be effective when delivered in person or transmitted by telecopier ("fax") machine, one (1) day after being sent by overnight courier, or two (2) days after being sent by first class mail postage prepaid to the address set forth above, or at such other address as the Team Members may from time to time give notice. A facsimile of this Agreement, notices, or Allocations of Work generated in good form by a fax machine (as well as a photocopy thereof) shall be treated as "original" documents admissible into evidence, unless a document's authenticity is legitimately placed in question.

14. Independent Contractor Status. Each party is an independent contractor in relation to the other party with respect to all matters arising under this Agreement. Nothing herein shall be deemed to establish a partnership, joint venture, association, or any other form of business association or

employment relationship between the Team Members. Neither party is the agent of the other, and neither may bind the other. No profits, losses, or costs will be shared under any provision of this Agreement.

15. Publicity. Any news release, public announcement, advertisement, or publicity (collectively, "Publicity") proposed to be released by either party concerning the Proposal or either party's efforts in connection with the Proposal or any resulting Prime Contract or Subcontract will be subject to the written approval of the other party prior to release. Full consideration and representation of the respective roles and contributions of both Team Members shall be given in any such authorized Publicity.
16. Default. Either party may be declared in default of this Agreement if it breaches any material provision hereof and fails within ten (10) days after receipt of notice of default to correct such default or to commence corrective action reasonably acceptable to the non-breaching party. Either party shall be in default hereof if it becomes insolvent, makes an assignment for the benefit of its creditors, a receiver is appointed or a petition in Bankruptcy is filed with respect to such party.
17. Rights In Inventions. Inventions conceived pursuant to this Agreement shall remain the property of the originating party. In the event of joint inventions, the parties shall engage in good faith negotiations to establish their respective rights. Failing agreement, each party shall have equal ownership and rights in such joint inventions, without further obligation to the other party.
18. Term, Termination. The term of this Agreement (the "Term") shall become effective upon execution of this Agreement by both Team Members and shall remain in full force and effect until terminated upon the first of the following events to occur:
 - (a) a Default by one party under this Agreement that is not cured in accordance with Section 16;
 - (b) mutual agreement of the Team Members to terminate this Agreement;
 - (c) termination by Prime for convenience, subject to thirty (30) days notice by the Prime;
 - (d) written notice from the Customer that it has decided not to award the Prime Contract to any party, or award of the Prime Contract by the Customer to a party other than the Prime and the unsuccessful conclusion of any protests challenging that award;
 - (e) award of the Prime Contract to Prime and execution by the Team Members hereto of a Subcontract as contemplated herein;
 - (f) upon the insolvency, bankruptcy, reorganization under bankruptcy laws, or assignment for the benefit of creditors of either party to the extent that there is a reasonable doubt that such party lacks the resources or ability to properly perform its obligations hereunder;
 - (g) when the RFP is amended such that the services described in Appendix 1 or in the RFP, are no longer required;
 - (h) upon the indictment, suspension or debarment by the government of either party;

- (i) if Team Leader delivers written notice to the Team Member that a Proposal will not be submitted in response to the RFP;
 - (j) the failure of the Team Members to reach an agreement on the terms of a Subcontract within 30 calendar days following award to the Prime, despite the parties reasonable and good faith efforts, or;
 - (k) the expiration of one (1) year from the issuance of the RFP.
19. Miscellaneous. This Agreement may be modified or amended only by a writing signed by the authorized representatives of both Team Members. Neither this Agreement nor any rights or obligations hereunder may be transferred or assigned without the other party's prior written consent. Neither party shall be liable for delays caused by events beyond its reasonable control. Any provision hereof found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect to the extent that the intent of the parties is preserved thereby. Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions. Headings are for reference purposes only and have no substantive effect.
20. Non-Solicitation of Employees. Team Members agree not to knowingly solicit for employment or to knowingly hire the employees of the other party involved in the Proposal preparation for the RFP during the term of this Agreement and for a one (1) year period thereafter. This section shall not restrict in any way the rights of either party to solicit or recruit generally in the media, and shall not prohibit either party from hiring an employee of the other who answers any advertisement or who otherwise voluntarily applies for this without having been personally solicited or recruited by the hiring party.
21. Assignment. This Agreement may not be assigned or otherwise transferred by Team Member, in whole or in part, without the prior written consent of Team Leader.
22. Waiver and Modification. No provision of this Agreement may be waived or modified except by a writing executed by authorized representatives of both parties.
23. Choice of Law and Enforceability. This Agreement shall be construed, governed, interpreted, and applied in accordance with the laws of the State of Minnesota, exclusive of its conflict of laws provisions. The failure to enforce any right or provision herein shall not constitute a waiver of that right or provision. If any provisions herein are found to be unenforceable on the grounds that they are overly broad or in conflict with applicable laws, it is the intent of the parties that such provisions be replaced, reformed or narrowed so that their original business purpose can be accomplished to the extent permitted by law, and that the remaining provisions shall not in any way be affected or impaired thereby.
24. Entire Agreement. This Agreement, the Agreement and the accompanying Appendices entered into by the Parties and integrated herein during the Term hereof, contain the entire agreement between the Team Members with respect to the subject matter hereof and supersede any previous understandings, commitments, or agreements (oral or written) with respect to the RFP or Proposal.

IN WITNESS WHEREOF, the Team Members hereto have caused this Agreement to be executed by their authorized representatives as set forth below.

OPTUM GOVERNMENT SOLUTIONS, INC.

ESENSE INCORPORATED

By: 
By: Jeffrey Grosklags (Jul 17, 2024 13:03 CDT)

By: 
By: _____

Name: Jeffrey Grosklags

Name: Sanjay Vaze

Title: Chief Financial Officer

Title: President

Date: 07/17/2024

Date: 07/16/2024

APPENDIX 1
ALLOCATION OF WORK

A. ALLOCATION OF WORK

The following sets forth a general statement of the allocation of the responsibilities of the Team Members with respect to the Proposal to be submitted in response to the Request for Proposal Request 24-78424 dated April 19, 2024, as amended (the “RFP”) from the Indiana Department of Administration on behalf of the Family and Social Services Administration (“IN FSSA” or the “Customer”) for Enterprise Decision Support Solutions (EDSS) (the “Project”)

1. Description of the Products and/or Services to be provided by Subcontractor, including functions to be performed by Subcontractor.

The following sets forth a general statement of the allocation of the responsibilities of the Team Members with respect to the Proposal to be submitted in response to the RFP, as amended:

The scope of work for which Subcontractor is anticipated to be responsible (the “Subcontractor Allocation of Work”) shall consist of products and services in the following areas from the RFP, where references in the General Project Description to “EDW Contractor” would include Subcontractor, to the extent of Subcontractor’s Deliverables, Responsibilities and Scope of Work set forth in Section 1.2 below:

1.1 General Project Description:

Enterprise Data Warehouse (EDW) Scope

The FSSA Office of Medicaid Policy & Planning (OMPP) and FSSA Division of Family Resources (DFR) are the most significant EDW stakeholders.

While State DST staff manages the EDW, they are supported by two incumbent vendors. The first vendor, at a high level, manages and supports the EDW’s Teradata and Informatica ETL infrastructure and OMPP Data Warehouse (OMPP DW) healthcare-oriented data extraction and reporting. The second vendor supports the Social Services Data Warehouse (SSDW), which is used by several program areas across FSSA, along with other agencies such as the Indiana Department of Health (IDOH). There is some overlap between the two vendors and they both have had roles in furthering the EDW with consolidated infrastructure and standard data warehouse-oriented tools. Note: Although both the Medicaid and social service data extraction and reporting are contained under the Teradata/Informatica platform, they are considered to be two distinct systems.

Though the current EDW is composed of two distinct segments handled by two vendors, the State wishes to combine these responsibilities under one vendor (“EDW Contractor”) for the future state of the EDW, as this Scope of Work describes. It is expected that the Contractor will find resource and cost savings efficiencies in their staffing structure to provide the needed support for both segments, while not sacrificing level of service across distinct State programs (e.g., utilizing a single Project Executive or shared security team who are able to meet service expectations across State teams)

For both segments (i.e., the OMPP DW and the SSDW), the EDW Contractor is expected to provide the following systems and M&O services:

- a. Data warehouse platform infrastructure, tools, and services
- b. Data governance
- c. Clearinghouse, functioning as the staging, ETL (extract, transform, and load) and cleansing clearinghouse for data conversion
- d. Decision support and reporting tools and services
- f. Operational reports (financial reports, program performance measurement, including but not limited to trending and forecasting)
- g. Program management reporting (e.g., using health care data as available through the advancement of Health Information Technology (HIT) in the State)
- h. Business intelligence tools and support staff dedicated to addressing program monitoring and analysis. Data analytic subject matter experts (SMEs) to serve as consultants to FSSA and liaisons to the technical data analytics team
- i. Maintenance and operations (M&O) and enhancements for the SSDW.
- j. Support the reporting needs of FSSA as well as its State and Federal partners, including IDOH and the Department of Child Services (DCS).

The SSDW segment-specific needs of the EDW are:

- o Work closely with the State Board of Accounts (SBOA) and DFR concerning TANF audits.
- o Work closely with the FSSA Privacy and Security Office and DFR concerning compliance, ongoing risk assessments, and corrective action management for example CMS POAM/Minimum Acceptable Risk Standards for Exchanges (MARS-E) requirements, SSA security requirements, and IRS Publication 1075 Audits.

1.2 Subcontractor's Deliverables, Responsibilities and Scope of Work:

Description of the Products and/or Services to be Provided by Subcontractor, including functions to be performed by Subcontractor. References to Supplier shall mean Subcontractor.

1.2.1 Tasks/Deliverables/Methodology:

Subcontractor's consultants shall be responsible for assisting Prime in performing work related to some or all, but not limited to the following tasks from the RFP:

System Support and Reporting: Manage processes and procedures required to provide technical and functional support.

- Perform resolution of all defects discovered and prioritized by the defined processes.
- Make routine maintenance changes in the ordinary course of the Contractor's provision of services defined within the scope of its Contract (such as changes to operating procedures and schedules) at no additional cost to the State.
- Conduct monitoring and analysis of Service Level Agreements.
- Assist in providing required reports and business intelligence reporting for State and Federal partners.
- Assist in providing State and federally required reports including those for the CMS (e.g., CMS Streamlined Modular Certification (SMC) Reporting), ACF, FNS (e.g., FNS Major Change Reporting), and other State entities
- Assist in the maintenance of legacy HIP and Medicaid reporting requirements

- Assist in the maintenance legacy interface and data sharing requirements.
- Support the continuation and finalization of new reporting requirements, as well as maintenance of resulting reports.
- Support the continuation and finalization of new interface and data sharing requirements, as well as maintenance of resulting interfaces and data sharing mechanisms.
- Provide staff that have knowledge of State and Federal Medicaid laws as well as the ability to navigate Medicaid reporting requirements.
- Provide staff that understand TANF/Maintenance of Effort (MOE), SNAP, EBT, employment and training programs, eligibility determination, application tracking and redetermination tracking, and related State and Federal laws.
- Assist in the management of Operational Data Stores
- Assist in the management of any Data Marts to act as a summarized subset of the enterprise's data specific to a functional area or department, geographical region, or time period. EDW Data Marts:
 - Assist in the management of data marts around the following divisional/agency data: SNAP/TANF, Division of Aging, DMHA, OECOSL, DDRS, DCS, IDOH, Finance, and State Agency data.
 - Assist in the addition of any new data marts as defined by the State
 - Help maintain tool development that includes but is not limited to the following: source data extraction and transformation, data cleansing, data load, data refresh, data access, security enforcement, version control/configuration management, data modeling, and metadata management.
 - Help maintain a notification protocol for all users to report any problem or issue that affects data accuracy or integrity immediately.
 - Maintain the current ETL that involves extracting data from outside sources; transforming it to fit operational needs (which can include quality levels); and loading it into the end target (data mart or data warehouse) and resolving pipeline failures to ensure complete data models.
 - Assist in the management of audit processes and audit trail for historical reference for any records such as deleted records and merged records which complies with Federal laws and guidelines for audits such as annual SAS-70 audit (or its successor), HIPAA Security Rule, compliance with all State and Federal privacy and security regulations.

Enhancements: Design, develop, test, and implement enhancements to the system and reports, including modifications to existing reports, via the integrated change control process.

Service Requests, Incident and Problem Management: Properly plan and conduct services to minimize the occurrence of incidents and/or problems with service delivery. If incidents and/or problems are to arise, the Contractor shall work with the State to resolve issues in a timely manner based on the governance plan and priorities of the State.

Document Management: Maintain and keep up to date all artifacts.

System Expertise: Provide business and technical subject matter expertise on all Data Warehouse managed data and reporting. (Including health data and social services expertise.

Training: Assist in the preparation and presentation of training materials

Medicaid Information Technology Architecture (MITA) Support: Provide information to the State throughout their support lifecycle regarding applicable MITA maturity of the EDW solution, including maintenance of the conceptual data model and logical data model.

Data Governance: Support the establishment, maintenance, implementation and management of a data management strategy, which will include a data governance plan, staff roles and responsibilities, data catalog plan, metadata creation, data quality strategy, data retention standards, and privacy and data security standards in accordance with State and Federal standards

1.2.2 Subcontractor Personnel:

Subcontractor shall provide sufficient personnel, listed in the staffing table below, in accordance with the requirements of the RFP and in a professional and workmanlike manner. Prime will provide oversight of Subcontractor's work, and Subcontractor staff will be required to report to Optum management as directed by Prime.

Subcontractor shall be responsible for providing personnel for the positions set forth in Section 3 in order to perform the above Subcontractor Allocation of Work, provided such personnel are accepted and approved by Prime and the Customer and where such personnel shall meet the minimum qualifications set forth in the RFP and shall be provided during the Subcontract Term as set forth in the then current Project Plan.

For purposes of this Allocation Of Work, a FTE is assumed to work 1,920 per contract year (160 hours per month), provided, however, that the actual number of hours shall be subject to the mutually agreed upon project plan and authorization from the Prime's Project Manager or his/her designee. Subcontractor agrees that the named Consultant listed below or any mutually agreed upon alternatives shall be made available to work at least 1,920 hours per contract year (160 hours per month) and shall not be reassigned to other projects or otherwise unavailable due to causes within Subcontractor's control. If a named or otherwise approved Consultant is not available to work for this number of hours due to reasons outside of Subcontractor's control, then Subcontractor shall have an obligation to provide an alternative Consultant of equal or better qualifications and experience to the Consultant that had been approved for the applicable position and that is acceptable to Prime and the Customer.

All Services shall be performed by Subcontractor in the continental United States and more specifically, either at Subcontractor's offices in Indiana, remotely, or at the Customer's location(s) in Indiana.

All other Sections of the RFP governing the products and/or services, as defined and described in Prime's Proposal to the Customer shall be performed by Prime, either by itself or through another subcontractor (collectively, the "Prime Allocation of Work").

2. TERM

Approximate dates that Subcontractor shall perform the Subcontractor Allocation of Work:

The dates of performance shall run for the duration of the initial term of the Prime Contract between the Prime and the Customer and any extensions thereof, unless otherwise specified in the then current Project Schedule which Prime shall share with Subcontractor. The estimated commencement date of the initial term of the Prime Contract shall be March 1, 2025 and the initial term shall be four (4) years, with the potential for two (2) one year (1) extensions. The foregoing dates of performance shall be subject to early termination provisions that would be set forth in the Subcontract.

It is anticipated that there will be a ten (10) month initial transition period, where Prime will be responsible for certain deliverables and will develop and manage plans to transfer services from the incumbent contractor. Following the initial transition period, Prime will take over M&O services, with the assistance of Subcontractor.

3. PRICING AND PAYMENT TERMS

During the Term, it is expected that Prime shall pay Subcontractor the percentage set forth in the State Of Indiana MBE/WBE Subcontractor Commitment Form (the "Percentage") identifying Subcontractor in Prime's Proposal submitted in response to the RFP, subject to the adjustment described in the immediately following paragraph.

In consideration of the foregoing commitment, Subcontractor shall be obligated to furnish personnel for project roles defined herein that meet the qualifications and experience required by Customer and Prime and for the number of hours described herein. If the Customer requires removal of any Subcontractor's personnel or if any of the Subcontractor personnel do not meet the requirements of the Prime Contract, then Subcontractor shall be obligated to provide replacement personnel of equal or better qualifications. Notwithstanding the foregoing, if Subcontractor fails to perform in accordance with the terms of the Allocation Of Work, Prime shall have the right to terminate this Allocation Of Work in whole or in part and Prime's obligation to pay Subcontractor the above Percentage shall be adjusted accordingly. In addition, if and to the extent Prime's MBE commitment to Subcontractor set forth in the Prime Contract changes, Prime shall communicate such change(s) to Subcontractor in writing and such change(s) shall become effective upon Subcontractor immediately with the same legal force and effect as an amendment between Prime and Subcontractor that is signed by the parties' duly authorized representatives.

The hourly rates, as set forth in the table below, are inclusive of travel and living ("T&L") expenses. New and/or replacement resources, if requested and mutually agreed upon by the parties through a future amendment, will be brought in at a negotiated rate based on the market at that time.

Notwithstanding the foregoing regarding the amount of Prime's MBE commitment to Subcontractor, Subcontractor shall invoice Prime on a monthly basis for all actual hours worked during the prior month. As such, Subcontractor may be entitled to invoice and Prime shall be obligated to pay for all hours worked even if the total amount payable over the Term exceeds the amount of Prime's MBE commitment to Subcontractor.

Each invoice shall include a Purchase Order number, description of the actual services and Deliverables provided by Subcontractor, broken down by Consultant. In addition to providing such a description, Subcontractor shall report the hours any of its Consultants work in the Prime time reporting system on a twice per month basis. Subcontractor's invoice(s) shall be payable by Prime within thirty (30) days after receipt of invoice, provided that the Customer has not withheld payment to Prime and provided further that Subcontractor is not in breach of this Agreement.

The Subcontract shall also provide that the price that Prime shall pay Subcontractor for the above services falling within the Subcontractor's Allocation of Work shall be as follows:

Subject to Subcontractor providing the above staff during the Initial Term, the total amount payable to Subcontractor shall not exceed: \$3,806,899.20, provided that if the parties agree to add staff, they shall do so in a written amendment for a new not to exceed amount.

Payment terms will be specified in the Subcontract but payment will be based upon Subcontractor providing monthly invoices for hours of Services provided in the prior calendar month with supporting detail. Subcontractor's invoice(s) shall be payable by Prime within thirty (30) days after receipt of invoice, provided that the Customer has not withheld payment to the Prime. All travel related expenses must be pre-approved by Prime. No overtime shall be billed to and paid by Prime unless Subcontractor has received written approval from the direct Prime supervisor assigned to Subcontractor by Prime.

The Acceptance Criteria for all Services shall be defined as part of the Project Plan that will be mutually agreed upon in writing among the Prime and Subcontractor.

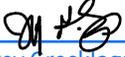
4. MINORITY OWNED BUSINESS COMMITMENT

Subcontractor understands that its services and resources play an important and vital role in helping Optum meet its small business commitment, which is required during the term of the Prime Contract. For the duration of Subcontract, Subcontractor shall maintain its Indiana Certification as a minority owned business and provide appropriate documentation of such to Prime upon request. Additionally, all resources provided by Subcontractor shall be viewed as key personnel, where such resources cannot be removed from the project unless there is prior Optum written approval, and only if Subcontractor has replacement personnel for Optum to approve in a timely manner such that the small business spend commitment is not reduced. Replacement personnel shall be at the same skill level and shall be at or below the rate stated in this Agreement for the applicable role. Should Subcontractor fail to perform or fill vacant roles in a timely manner, Optum may reduce its spend commitment to Subcontractor.

IN WITNESS WHEREOF, the Team Members hereto have caused this Appendix 1, Allocation of Work, inclusive of the pricing, to be executed by their authorized representatives as set forth below.

OPTUM GOVERNMENT SOLUTIONS, INC.

ESENSE INCORPORATED

By: 
Jeffrey Grosklags (Jul 17, 2024 13:03 CDT)

By: 

Name: Jeffrey Grosklags

Name: Sanjay Vaze

Title: Chief Financial Officer

Title: President

Date: 07/17/2024

Date: 07/16/2024

APPENDIX 2

SUBCONTRACTOR PROPOSAL INFORMATION

Subcontractor shall provide assistance to the Prime in its Proposal as follows:

1. Provide resumes and photos for all personnel from Subcontractor for consideration by Prime and if Prime and Subcontractor agree to use such personnel, for inclusion in the Proposal
2. Provide pricing-related information in order for the Prime to submit a compliant Cost Proposal under the RFP.
3. As further specified by Prime, provide information regarding Subcontractor's experience working with Prime and Customer, and providing services substantially similar to those under the RFP.
4. Be named as a subcontractor with a company bio in the Proposal.
5. Provide Subcontractor company information, as required, including but not limited to, FEIN, corporate address, and licenses and permits held.
6. Maintain Indiana Certification as a minority owned business and provide documentation to Prime.
7. MBE Certification Letter provided by IDOA, MBE Letter of Commitment on eSense letterhead for the EDW (i.e., SSDW) scope of work, and any additional forms required for the Proposal.
8. If required, provide information about past contract performance, including termination of contracts for failure to perform and references.
9. Any additional information or assistance reasonably requested by the Prime or otherwise required by the RFP.

APPENDIX 3

FLOW DOWN PROVISIONS

Subcontractor shall provide the services described in Appendix 1 in accordance with, and subject to, compliance by Subcontractor with, those terms of the Contract that apply to the scope of such Services (the "Flow Down Provisions"), where such Flow Down Provisions shall be included in any Subcontract. Unless the context requires otherwise, references in the Contract to "Offeror," "Contractor," or "subcontractor" shall, for purposes of these Flow Down Provisions, be deemed to be references to "Subcontractor." References to "FSSA" or "Department" or "State" shall be deemed to be references to "Optum" or "Prime", unless the context requires that they instead be deemed to stay as references to FSSA, Department or the State, as set forth below. References to "contract" shall be deemed to be the Subcontract between Optum and Subcontractor.

For purposes of clarity, the Flow Down Provisions shall include the following provisions from the Contract that apply either to Subcontractor by virtue of the Subcontractor Allocation of Work or to Subcontractor in its capacity as a subcontractor.

RFP:

Conflict of Interest

Any person, firm or entity that assisted with and/or participated in the preparation of this solicitation document is prohibited from submitting a proposal to this specific solicitation. For the purposes of this solicitation, a "person" means a State officer, employee, special State appointee, or any individual or entity working with or advising the State or involved in the preparation of this solicitation proposal. This prohibition would also apply to an entity who hires, within a one-year period prior to the publication of this solicitation, a person that assisted with and/or participated in the preparation of this solicitation.

Sample Contract, Attachment B:

Access to Records.

The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

Assignment of Antitrust Claims.

As part of the consideration for the award of this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

Audits.

The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-11-1, et seq., and audit guidelines specified by the State.

The State considers the Contractor to be a "Contractor" under 2 C.F.R. 200.331 for purposes of this Contract. However, if it is determined that the Contractor is a "subrecipient" and if required by applicable

provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), Contractor shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 et seq.

Compliance with Laws.

- A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

- B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, et seq., IC § 4-2-7, et seq. and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.** If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

- C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

- D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

- E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall

not be subject to penalty or interest, except as permitted by IC § 5-17-5.

- F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC § 5-22-3-7:

(1) The Contractor and any principals of the Contractor certify that:

(A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:

- (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
- (ii) IC §24-5-12 [Telephone Solicitations]; or
- (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

(B) the Contractor will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

(2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

Confidentiality, Security and Privacy of Personal Information.

Definitions.

- 1) Personally Identifiable Information (“PII”) means personal information as collectively defined in IC-4-1-6-1 and IC 4-1-11-2 and under the National Institute of Standards and Technology (“NIST”) Special Publication 800-122, regardless of form (oral, written, electronic, or otherwise). As used here, PII includes PHI, SSA-data, and ACA-PII (as defined herein) as applicable, whether or not separately stated.
 - 2) Data Breach means the loss of control, compromise, unauthorized disclosure, unauthorized access or acquisition, or any similar occurrence where: a person other than an authorized user accesses or potentially accesses PII or other confidential information; or an authorized user accesses PII or other confidential information for other than an authorized purpose.
 - 3) Security Incident means an occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information the information system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.
 - 4) Confidential Information means information that is not publicly available under State or Federal laws, regulations, administrative code or rules, or as otherwise deemed confidential by the State.
 - 5) FedRAMP means the Federal Risk and Authorization Management Program.
 - 6) Terms used, but otherwise not defined in this Contract shall have the same meaning as those found in 45 CFR Parts 160, 162, and 164, and 45 CFR Subtitle A.
 - 7) “HIPAA” means the Health Insurance Portability and Accountability Act of 1996 (sections 1171 through 1179 of the Social Security Act), including any subsequent amendments to such Act.
 - 8) “HIPAA Rules” mean the rules adopted by and promulgated by the US Department of Health and Human services (“HHS”) under HIPAA and other relevant Federal laws currently in force or subsequently made, such as the Health Information Technology for Economic and Clinical Health Act (“HITECH”), as enumerated under 45 CFR Parts 160, 162, and 164, including without limitation any and all additional or modified regulations thereof. Subsets of the HIPAA Rules include:
 - a. “HIPAA Enforcement Rule” as defined in 45 CFR Part 160;
 - b. “HIPAA Security Rule” as defined in 45 CFR Part 164, Subparts A and C;
 - c. “HIPAA Breach Rule” as defined in 45 CFR Part 164, Subparts A and D; and
 - d. “HIPAA Privacy Rule” as defined in 45 CFR Part 164, Subparts A and E.
- B. If Contractor’s services under this Contract includes State authorized access to and use of PHI on the State’s behalf then Contractor is hereby deemed a Business Associate to the State and, as such, Contractor is hereby authorized by the State to create, receive, maintain, use, and/or transmit Protected Health Information (“PHI”) on the State’s behalf pursuant to and consistent with the services performed by Contractor under this Contract.
- C. Contractor is hereby authorized by the State to create, receive, maintain, use and/or transmit PII on the State’s behalf pursuant to and consistent with the services performed by Contractor under

this Contract. As used here, PII includes PHI, SSA-data, and ACA PII (as defined herein) as applicable, whether or not separately stated.

- D. Contractor understands that pursuant to and consistent with the services performed by Contractor under this Contract, Contractor may be permitted authorized access to data obtained by the State from the Social Security Administration (“SSA-data”). In this regard and to the extent that Contractor is permitted authorized access and use of SSA-data:
- 1) Contractor agrees that it will comply with the provisions of the Computer Matching and Privacy Protection Act Agreement (“CMPPA”) and the Information Exchange Agreement (“IEA”) executed between the Social Security Administration (“SSA”) and the State; these agreements are incorporated herein by reference and current copies of the CMPPA and IEA are attached to this Contract;
 - 2) Contractor further agrees that it will abide by all relevant Federal laws and restrictions on access, use, and disclosure of SSA-data, including the security requirements enumerated in the CMPPA and IEA;
 - 3) Contractor understands that its access, use, or disclosure of SSA-data in a manner or purpose not authorized by the CMPPA or IEA may subject Contractor, including Contractor’s employees, agents, and subcontractors, to civil and criminal sanctions pursuant to applicable Federal statutes; and,
 - 4) Contractor understands that the State, in compliance with the CMPPA, will undertake a review of Contractor’s compliance with Contractor’s obligations under the CMPPA, IEA, and this Contract no less than triennially; Contractor agrees to fully cooperate with the State in such reviews. Such reviews may be undertaken by the State in addition to or as part of other reviews of Contractor’s privacy and security policies, procedures, and practices undertaken by the State pursuant to this Contract.
- E. Contractor agrees that as a Business Associate to the State it is obligated to comply with the HIPAA Rules, as such Rules apply to Business Associates, throughout the term of this Contract and thereafter as may be required by Federal law and such compliance will be at Contractor’s sole expense. Further:
- 1) Contractor will not use or further disclose PHI or PII except as expressly permitted by this Contract or as required by law. It is further provided that nothing in this Contract shall be construed to permit Contractor use or disclose PHI in a manner that would violate the provisions of the HIPAA Privacy Rule as such Rule applies to the State with regard to the services performed by Contractor under this Contract or otherwise cause the State to be non-compliant with the HIPAA Privacy Rule.
 - 2) Contractor understands it must fully comply with the HIPAA Security Rule and will employ appropriate and compliant safeguards to reasonably prevent the use or disclosure of PHI and PII other than as permitted by this Contract or required by the HIPAA Privacy Rule or other applicable Federal or state law or regulation. Such safeguards will be designed, implemented, operated, and managed by Contractor at Contractor’s sole expense and following the Contractor’s best professional judgment regarding such safeguards. Upon the State’s reasonable request, Contractor will review such safeguards with the State.

- 3) Contractor understands that it is subject to the HIPAA Enforcement Rule under which Contractor may be subject to criminal and civil penalties for violations of and non-compliance with the HIPAA Rules.

F. Improper Disclosure, Security Incident, and Breach Notification.

- 1) As a Business Associate Contractor understands that it is subject to the HIPAA Breach Rule.
- 2) If a Security Incident occurs or if Contractor suspects that a Security Incident may have occurred with respect to PII in Contractor's safekeeping or as otherwise being legitimately used by Contractor in Contractor's performance of its services under this Contract:
 - a) Contractor shall notify the State of the Security Incident within twenty-four (24) hours of when Contractor discovered the Security Incident; such notification shall be made to the FSSA Privacy & Security Office in a manner reasonably prescribed by the FSSA Privacy & Security Officer and shall include as much detail as the Contractor reasonably may be able to acquire within the twenty-four (24) hour period.
 - b) For the purposes of such Security Incidents, "discovered" and "discovery" shall mean the first day on which such Security Incident is known to the Contractor or, by exercising reasonable diligence, would have been known to the Contractor. Regardless of whether the Contractor failed to exercise reasonable diligence, improperly delaying the notification of discovery beyond the twenty-four (24) hour requirement, the Contractor will notify the FSSA Privacy & Security Office within twenty-four (24) hours of gaining actual knowledge of a Security Incident.
 - c) In collaboration with the FSSA Privacy & Security Office, Contractor shall undertake all commercially reasonable efforts necessary to thoroughly investigate the Security Incident and to provide all results of such investigation to the FSSA Privacy & Security Office, including but not limited to Contractor personnel involved, source and cause of the Security Incident, specific information disclosed or possibly exposed, disclosure victims (those whose PII was disclosed or may have been disclosed or exposed to unauthorized access/use), disclosure recipients, supporting materials, actions taken to mitigate or stop the Security Incident, and similar details.
 - d) Contractor's investigation must be undertaken expeditiously and completed to the extent that a determination of whether a Breach has occurred can be reasonably made, including the identification of the victims or likely victims, within a reasonable timeframe as mutually agreed upon with the FSSA Privacy & Security Office, from the date of discovery of the Security Incident. Contractor shall provide details of its investigation to the FSSA Privacy & Security Office on an ongoing basis until the investigation is complete.
 - e) Contractor and the FSSA Privacy & Security Office will collaborate on the results of Contractor's investigation; the determination as to whether a Breach has occurred rests solely with the FSSA Privacy & Security Office.
 - f) If it is determined by the FSSA Privacy & Security Office that a Breach has occurred:

- I. Contractor agrees that it shall be responsible for, including all costs with respect to, fulfilling the State's and/or Contractor's obligations for notice to all of the known and suspected victims of the Breach. Such notice shall comply with the HIPAA Breach Rule notification requirements and/or applicable notification requirements under State law or regulation.
 - II. Contractor further agrees that such notification will be made under its name, unless otherwise specified by the FSSA Privacy & Security Office. Contractor will coordinate its Breach notification efforts with the FSSA Privacy & Security Office; the FSSA Privacy & Security Office will approve Contractor's Breach notification procedures and plans, including the format and content of the notice(s) prior to such notification being made.
 - III. Contractor accepts full responsibility for the Breach and any resulting losses or damages incurred by the State or any victim of the Breach.
 - IV. Contractor will undertake all commercially reasonable efforts necessary to mitigate any deleterious effects of the Breach for the known and suspected victims of the Breach.
 - V. The State, through the FSSA Privacy & Security Office, will make the appropriate notifications to HHS and/or the applicable Federal or State agencies with respect to the Breach, unless the Contractor is directed to do so by the FSSA Privacy & Security Office.
- g) Contractor will undertake commercially reasonable corrective actions to eliminate or minimize to the greatest degree possible the opportunity for an identified Security Incident to reoccur and provide the FSSA Privacy & Security Office with its plans, status updates, and written certification of completion regarding such corrective actions.
- 3) If Contractor observes or otherwise becomes aware of a Security Incident or suspected Security Incident outside of Contractor's scope of responsibilities under this Contract (for example, affecting PII not in Contractor's safekeeping), Contractor agrees to promptly report such Security Incidents to the FSSA Privacy & Security Office and cooperate with the FSSA Privacy & Security Office's investigation of the Security Incident.
- G. Subcontractors. Contractor agrees that in accordance with the HIPAA Privacy Rule, CMPPA, IEA, and 45 CFR §155.260 any subcontractors engaged by Contractor (in compliance with this Contract) that will create, receive, maintain, use or transmit State PII on Contractor's behalf will contractually agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such PII.
- H. Access by Individuals to their PHI/PII. Contractor acknowledges that in accordance with the HIPAA Privacy Rule and 470 IAC 1-3-1, *et seq*, individuals for whom Contractor has direct possession of their PHI/PII on the State's behalf have the right to inspect and amend their PHI/PII, and have the right for an accounting of uses and disclosures of such PHI/PII, except as otherwise provided therein. Contractor shall provide such right of inspection, amendment, and accounting of disclosures to such individuals upon reasonable request by the State (or by such individuals if the State directly refers such individuals to Contractor). In situations in which

Contractor does not have direct possession of such PHI/PII, then the State shall be responsible for such inspection, amendment, and accounting of disclosures rights by individuals.

- I. Access to Records. Contractor shall make available to HHS and/or the State and/or other Federal agencies so authorized by law Contractor's internal practices, books, and records relating to the use and disclosure of PHI and PII provided to Contractor by the State or created, received, maintained, used, or transmitted by Contractor on the State's behalf. Contractor shall promptly inform the State by giving notice to the FSSA Privacy & Security Office of any request by HHS (or its designee), other State agencies, or other Federal agencies for such internal practices, books, and/or records and shall provide the State with copies of any materials or other information made available to such agencies.
- J. Return of Protected Health Information. Upon request by the State or upon termination of this Contract, Contractor will, at the State's sole option, either return or destroy all copies of any PHI or PII provided to Contractor by the State, including PHI or PII created, received, maintained, used or transmitted by Contractor on the State's behalf and Contractor shall warrant in writing that it has returned or destroyed such PHI and/or PII. Further, upon termination of this agreement Contractor will not retain any copies of any such PHI and PII and shall warrant same in writing.
- K. At the sole discretion of the State, the State may terminate this Contract for Contractor's material breach of this Section.
- L. Contractor agrees to participate in a disaster recovery plan, as appropriate to the Contractor's services, as determined by the State to be necessary to uphold integral business functions in the event of an unforeseen disaster.
- M. Drug and Alcohol Records. In the performance of the services under this Contract, Contractor may have access to confidential information regarding alcohol and drug abuse patient records. Contractor agrees that such information is confidential and protected information and promises and assures that any such information, regardless of form, disclosed to Contractor for the purposes of this Contract will not be disclosed or discussed with others without the prior written consent of the State. The Contractor and the State will comply with the applicable requirements of 42 CFR Part 2 and any other applicable Federal or state law or regulatory requirement concerning such information. The Contractor will report any unauthorized disclosures of such information in compliance with this Section.
- N. Confidentiality of State Information. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon, or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by Contractor for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this Section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses

for which it is liable under the terms of this Contract. The Contractor shall report any unauthorized disclosures of Social Security numbers to the FSSA Privacy & Security Office within one (1) business day of the date of discovery in accordance with this Section.

- O. Contractor will indemnify and hold the State harmless from any loss, damage, costs, expense, judgment, sanction or liability, including, but not limited to, attorneys' fees and costs, that the State incurs or is subject to, as a result of a breach of this Section by the Contractor or any subcontractor, agent or person under Contractor's control. In the event a claim is made against the State for any such claim, cause of action, liability, damage, cost or expense, State may, at its sole option: (i) tender the defense to Contractor, who shall provide qualified and competent counsel to represent the State interest at Contractor's expense; or (ii) undertake its own defense, utilizing such professionals as it deems reasonably necessary, holding Contractor responsible for all reasonable costs thereof. In any event, the State shall have the sole right to control and approve any settlement or other compromise of any claim brought against it that is covered by this Section.
- P. Contractor shall adhere to all relevant FSSA Security Policies for any related activities provided to FSSA under this Contract. Contractor is responsible for verifying that any subcontractors they engage will also comply with these policies. Any exceptions to these policies require written approval from the FSSA Privacy & Security Office.
- Q. Access to FSSA and/or State Information Systems.
 - 1) "FSSA and/or State Information Systems" means all computing hardware and related components, all computer software and related components, all network devices and related functions, and data owned by, licensed to, in the legal custody of, and/or operated by FSSA and/or the State.
 - 2) If the Contractor, in the performance of Contractor's services under this Contract, is authorized and granted by the State with access to FSSA and/or State Information Systems:
 - a) Contractor agrees that it and all members of its workforce (as used here, "workforce" means employees, volunteers, interns, trainees, (sub)contractors, and other persons whose conduct is under the control of Contractor) performing such services will comply with all FSSA and State Privacy and Security Policies and Procedures.
 - b) All members of Contractor's workforce who are or will be granted access to FSSA and/or State Information Systems will undertake and certify completion of all FSSA and State mandated privacy and security training following a schedule reasonably required by FSSA and the State (e.g., upon new hire/assignment and annually thereafter).
 - c) All members of Contractor's workforce who are or will be granted access to FSSA and/or State Information systems will agree in writing or through electronic confirmation to the rules of behavior regarding access to and use of FSSA and/or State information systems; such rules of behavior include, but are not limited to the State Information Technology Resources User Policy ("ITR").
 - d) All members of Contractor's workforce who are or will be granted access to the FSSA Division of Family Resources ("DFR") eligibility and enrollment systems, a

subset of FSSA Information Systems as defined by DFR, will agree in writing or through electronic confirmation to the DFR Rules of Behavior.

- e) Such training and rules of behavior agreement(s) will be coordinated with Contractor by the FSSA Privacy and Security Office and the Indiana Office of Technology (“IOT”).
- f) Any members of Contractor’s workforce who fail to complete the required training as described above within the scheduled timeframes or who fail to agree to the rules of behavior will not be permitted to access FSSA and/or State information systems.
- g) Access to and usage of FSSA and/or State Information Systems is controlled through role-based access privileges and follows the principle of least privilege, meaning users are granted access to/usage of only the minimum amount of information and system functions necessary to perform their role or job assignment. As such, FSSA or its designee will provide Contractor with a list of roles it deems necessary for Contractor to perform the services; Contractor will identify each individual workforce member who requires access to/usage of FSSA and/or State Information Systems and the role to be assigned to each individual. Contractor will certify in writing that the role assigned to each individual workforce member is necessary and appropriate for the individual to perform their job assignment with respect to the performance of Contractor’s services under this Contract.
- h) FSSA will authorize and grant Contractor workforce member access privileges based on the requested and certified role in a timely manner; FSSA and IOT reserve the right to withdraw such authorization for any workforce member, with or without cause, at any time and without prior notice.
- i) Contractor agrees to notify the FSSA Privacy and Security Office or its designee within twenty-four (24) hours of any workforce member terminations or changes in workforce member assignment that would affect their need for access or role.
- j) Contractor agrees that it is solely responsible for the actions, including errors and omissions, intentional misconduct, or malfeasance of its workforce members with respect to their access to and usage of FSSA and/or State Information Systems.
- k) The FSSA Privacy and Security Office (or its designee) and Contractor will collaborate on the methods and means to identify workforce members requiring access, certification, changes, and other communications under this subsection.

R. 45 CFR §155.260 Compliance.

- 1) FSSA participates in a PII data exchange with the Centers for Medicare and Medicaid services (“CMS”) mandated under the Affordable Care Act (“ACA”, Public Law 111-148). The receipt of PII data from CMS through this data exchange (“ACA PII”) is in support of the determination of eligibility for healthcare coverage for individuals, which is a primary function of DFR. DFR is designated as the Administering Entity on behalf of FSSA under a computer matching agreement with CMS and, per the terms of that agreement, is obligated to comply with the provisions of 45 CFR §155.260 and §155.280 regarding the privacy and

security of ACA PII and that such compliance will be achieved through the application of the privacy and security standards and obligations established in the Minimum Acceptable Risk Standards for Exchanges (“MARS-E”) promulgated by CMS, including any subsequent versions issued by CMS.

- 2) 45 CFR §155.260(b)(2)(v) requires DFR on behalf of FSSA to bind all downstream entities with which ACA PII is shared to same privacy and security standards and obligations that DFR is obligated to comply with, subject to the provisions under 45 CFR §155.260(b)(3) and in compliance with the monitoring provisions under 45 CFR §155.280.
- 3) In this regard (pursuant to the immediately preceding):
 - i. Contractor understands that in the performance of its services under this Contract Contractor will be given access to and usage of ACA PII to the extent necessary to perform such services; such access and usage of ACA PII is hereby authorized by the State.
 - ii. Contractor agrees that such ACA PII is subject to the same provisions of this Section as apply to PII and PHI, including but not limited to subsection F Improper Disclosure, Security Incident, and Breach Notification.
 - iii. Contractor further agrees that it will employ privacy and security standards over such ACA PII that are consistent with and being at least as protective as the privacy and security standards employed by DFR as described in paragraph 1) above taking into consideration: (i) the environment in which the Contractor is operating; (ii) whether specific standards are relevant and applicable to the Contractor’s duties and activities in the performance of the services; and, (iii) existing legal requirements to which Contractor is bound in relation to its administrative, technical, and operational controls and practices, including but not limited to, its existing data handling and information technology processes and protocols.
 - iv. Contractor additionally agrees that the privacy and security standards it employs over ACA PII will be consistent with the principles established in 45 CFR §155.260(a)(3) and that Contractor will bind any subcontractors with authorized access to ACA PII to the same or at least as protective as the privacy and security standards Contractor employs over ACA PII.
 - v. Contractor agrees that it will comply with the applicable provisions under 45 CFR §155.260 as a non-exchange entity; specifically, Contractor will comply with the MARS-E 2.2 privacy and security control requirements and with any subsequent versions of those control requirements promulgated by CMS with Contractor’s compliance with those subsequent versions to be achieved by the compliance date established by CMS in such subsequent versions.

Debarment and Suspension.

- A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department,

agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

- B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

Drug-Free Workplace Certification.

As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them 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 violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

Employment Eligibility Verification.

As required by IC § 22-5-1.7, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:

- A. The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.
- B. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.
- C. The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

Force Majeure.

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

Indemnification.

The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State will not provide indemnification to the Contractor.

Independent Contractor; Workers' Compensation Insurance.

The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

Information Technology Enterprise Architecture Requirements.

If this Contract involves information technology-related products or services, the Contractor agrees that all such products or services are compatible with any of the technology standards found at <https://www.in.gov/iot/2394.htm> that are applicable, including the assistive technology standard. The State may terminate this Contract for default if the terms of this paragraph are breached.

The Contractor specifically agrees that all hardware, software and services provided to or purchased by FSSA will comply with the privacy and security standards enumerated in the current version of the Minimum Acceptable Risk Standards for Exchanges (MARS-E) promulgated by the US Department of Health and Human Services Centers for Medicare & Medicaid Services (CMS). CMS will publish future versions of MARS-E and the Contractor agrees, at its sole expense, to modify all hardware, software, and services provided under this agreement to be compliant with such future versions within the timeframe mandated by CMS.

Insurance.

- A. The Contractor and its subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:
 - 1) Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability

arising directly or indirectly under or in connection with this Contract.

- 2) Automobile liability for owned, non-owned and hired autos with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.
- 3) Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract.
- 4) Fiduciary liability if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others with limits no less than \$700,000 per cause of action and \$5,000,000 in the aggregate.
- 5) Valuable Papers coverage, if applicable, with an Inland Marine Policy Insurance with limits sufficient to pay for the re-creation and reconstruction of such records.
- 6) Surety or Fidelity Bond(s) if required by statute or by the agency.
- 7) Cyber Liability addressing risks associated with electronic transmissions, the internet, networks and informational assets, and having limits of no less than \$700,000 per occurrence and \$5,000,000 in the aggregate.

The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage meeting all statutory requirements of IC § 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana. All insurance documents are to be sent electronically to insurancedocuments.fssa@fssa.in.gov.

B. The Contractor's insurance coverage must meet the following additional requirements:

- 1) The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
- 2) Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
- 3) The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in

this Contract.

- 4) The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
- 5) The Contractor waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana.

Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

Licensing Standards.

The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

Nondiscrimination.

Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). The Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

The State is a recipient of federal funds, and therefore, where applicable, the Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

Ownership of Documents and Materials.

All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State. If ownership interest in the Materials cannot be assigned to the State, the Contractor grants the State a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials.

Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by the State and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the State full, immediate, and unrestricted access to the Materials and to Contractor's work product during the term of this Contract.

Public Record.

The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and will post this Contract on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

Waiver of Rights.

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

Work Standards.

The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

Federally Required Clauses.

The Contractor must comply with the following provisions:

A. Executive Order 11246, entitled "Equal Employment Opportunity," as supplemented by the Department of Labor Regulations (41 CFR Part 60): The Executive Order prohibits, among other things, federal contractors and federally assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

Contractor will compile data, maintain records, and submit reports as required to permit effective enforcement of nondiscrimination laws, regulations, policies, instructions, and guidelines. This agreement permits authorized USDA personnel to review such records, books, and accounts as needed during hours of program operation to ascertain compliance.

B. The Clean Air Act, Section 306:

a. No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.

b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).

c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

C. The Clean Water Act:

a. No Federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall

continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:

i. requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and

ii. setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

e. The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

f. (1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section. (2) In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

D. The Anti-Lobbying Act: This Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the applicant certifies that:

a. 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 making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;

b. 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 federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

E. Americans with Disabilities Act: This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.

F. Drug Free Workplace Statement: The Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:

- a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace.
- b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
- c. Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.
- d. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the Indiana Family and Social Services Administration that abuse of this drug will also not be tolerated in the workplace.
- e. Contractors of federal agencies are required to certify that they will provide drugfree workplaces for their employees.

G. Debarment, suspension, and other responsibility matters: As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110.

- a. The applicant certifies that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - ii. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

iv. Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default.

b. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

H. The federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes, the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant or any rights of copyright to which a contractor purchases ownership

I. Civil Rights Compliance and Enforcement Assurance

a. The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

Additional Terms and Conditions, Attachments B1, B2, B3

Data Ownership: The State owns all rights, title, and interest in the Data. The contractor shall not access State user accounts or Data, except: (1) in the normal course of data center operations; (2) in response to Service or technical issues; (3) as required by the express terms of this contract, applicable Statement of Work, or applicable Service Level Agreement; or (4) at the State's written request.

Contractor shall not collect, access, or use Data except as strictly necessary to provide Service to the State. No information regarding State's use of the Service may be disclosed, provided, rented, or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. This obligation shall survive and extend beyond the term of this contract.

Data Protection: Protection of personal privacy and Data shall be an integral part of the business activities of the contractor to ensure there is no inappropriate or unauthorized use of Data at any time. To this end, the contractor shall safeguard the confidentiality, integrity, and availability of Data and shall comply with the following conditions:

- a. The contractor shall implement and maintain appropriate administrative, technical, and organizational security measures to safeguard against unauthorized access, disclosure, or theft of Data. Contractor shall implement and maintain heightened security measures with respect to Encrypted Data. Such security measures shall be in accordance with Indiana Office of Technology practice and recognized industry practice, including but not limited to the following:
 1. Information Security Framework; and
 2. Indiana Office of Technology Cloud Product and Service Agreements, Standard ID: IOT-CS-SEC-010.
- b. All Encrypted Data shall be subject to controlled access. Any stipulation of responsibilities shall be included in the Statement of Work and will identify specific roles and responsibilities.
- c. The contractor shall encrypt all Data at rest and in transit. The State may, in the Statement of Work, identify Data it deems as that which may be publicly disclosed that is not subject to encryption. Data so designated may be maintained without encryption at rest and in transit. The level of protection and encryption for all Encrypted Data shall meet or exceed that required in the Information Security Framework.
- d. At no time shall any Data or processes — that either belong to or are intended for the use of State — be copied, disclosed, or retained by the contractor or any party related to the contractor for subsequent use in any transaction that does not include the State.
- e. The contractor shall not use any information collected in connection with the Services for any purpose other than fulfilling its obligations under the contract.

Data Location: Storage of Data at rest shall be located solely in data centers in the United States and the contractor shall provide its Services to the State and its end users solely from locations in the United States. The contractor shall not store Data on portable devices, including personal laptop and desktop computers. The contractor shall access Data remotely only as required to provide technical support. The contractor shall provide technical user support on a 24/7 basis unless specified otherwise in the Service Level Agreement.

Notice Regarding Security Incident or Data Breach:

- a. Incident Response: contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries, and seeking external expertise as mutually agreed upon, defined by law, or contained in the contract. Discussing Security Incidents and Data Breaches with the State must be handled on an urgent

basis, as part of contractor's communication and mitigation processes as mutually agreed upon in the Service Level Agreement, contained in the contract, and in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.

b. Security Incident Reporting Requirements: The contractor shall report a Security Incident to the State-identified contact(s) as soon as possible by telephone and email, but in no case later than two (2) days after the Security Incident occurs. Notice requirements may be clarified in the Service Level Agreement and shall be construed in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.

c. Data Breach Reporting Requirements: If a Data Breach occurs, the contractor shall do the following in accordance with IC 4-1-11 and IC 24-4.9 as they may apply: (1) as soon as possible notify the State-identified contact(s) by telephone and email, but in no case later than two (2) days after the Data Breach occurs unless a shorter notice period is required by applicable law; and (2) take commercially-reasonable measures to address the Data Breach in a timely manner. Notice requirements may be clarified in the Service Level Agreement. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

Responsibilities Regarding Data Breach: This section applies when a Data Breach occurs with respect to Encrypted Data within the possession or control of the contractor.

a. The contractor shall: (1) cooperate with the State as reasonably requested by the State to investigate and resolve the Data Breach; (2) promptly implement necessary remedial measures, if necessary; and (3) document and provide to the State responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the Services, if necessary.

b. Unless stipulated otherwise in the Statement of Work, if a Data Breach is a result of the contractor's breach of its contractual obligation to encrypt Data or otherwise prevent its release as reasonably determined by the State, the contractor shall bear the costs associated with: (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators, or others required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (3) a credit monitoring service required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (4) a website or a toll-free number and call center for affected individuals required by federal and/or state law — all of which shall not amount to less than the average per-record per-person cost calculated for data breaches in the United States (in, for example, the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the Data Breach); and (5) complete all corrective actions as reasonably determined by contractor based on root cause and on advice received from the Indiana Office of Technology. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

Notification of Legal Requests: If the contractor is requested or required by deposition or written questions, interrogatories, requests for production of documents, subpoena, investigative demand or similar process to disclose any Data, the contractor will provide prompt written notice to the State and will cooperate with the State's efforts to obtain an appropriate protective order or other reasonable assurance that such Data will be accorded confidential treatment that the State may deem necessary.

Termination and Suspension of Service:

a. In the event of a termination of the contract, the contractor shall implement an orderly return of Data in a mutually agreeable and readable format. The contractor shall provide to the State any information that may be required to determine relationships between data rows or columns. It shall do so at a time agreed to by the parties or shall allow the State to extract its Data. Upon confirmation from the State, the contractor shall securely dispose of the Data.

b. During any period of Service suspension, the contractor shall not take any action that results in the erasure of Data or otherwise dispose of any of the Data.

c. In the event of termination of any Services or contract in its entirety, the contractor shall not take any action that results in the erasure of Data until such time as the State provides notice to contractor of confirmation of successful transmission of all Data to the State or to the State's chosen vendor.

During this period, the contractor shall make reasonable efforts to facilitate the successful transmission of Data. The contractor shall be reimbursed for all phase-out costs (i.e., costs incurred within the agreed period after contract expiration or termination that result from the transfer of Data or other information to the State). A reimbursement rate shall be agreed upon by the parties during contract negotiation and shall be memorialized in the Statement of Work. After such period, the contractor shall have no obligation to maintain or provide any Data and shall thereafter, unless legally prohibited, delete all Data in its systems or otherwise in its possession or under its control. The State shall be entitled to any post-termination assistance generally made available with respect to the Services, unless a unique data retrieval arrangement has been established as part of a Service Level Agreement.

d. Upon termination of the Services or the contract in its entirety, contractor shall, within 30 days of receipt of the State's notice given in 7(c) above, securely dispose of all Data in all of its forms, including but not limited to, CD/DVD, backup tape, and paper. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the State upon completion.

Background Checks: The contractor shall conduct a Federal Bureau of Investigation Identity History Summary Check for each employee involved in provision of Services: (1) upon commencement of the contract; (2) prior to hiring a new employee; and (3) for any employee upon the request of the State. The contractor shall not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to one (1) year is an authorized penalty. The contractor shall promote and maintain an awareness of the importance of securing the State's information among the contractor's employees, subcontractors, and agents. If any individual providing Services under the contract is not acceptable to the State, in its sole opinion, as a result of the background or criminal history investigation, the State, in its sole option shall have the right to either: (1) request immediate replacement of the individual; or (2) immediately terminate the contract, related Statement of Work, and related Service Level Agreement.

Contract Audit: The contractor shall allow the State to audit conformance to the contract terms. The State may perform this audit or contract with a third party at its discretion and at the State's expense.

Non-disclosure and Separation of Duties: The contractor shall enforce role-based access control, separation of job duties, require commercially-reasonable nondisclosure agreements, and limit staff knowledge of Data to that which is absolutely necessary to perform job duties. The contractor shall annually provide to the State a list of individuals that have access to the Data and/or the ability to service the systems that maintain the Data.

Import and Export of Data: The State shall have the ability to import or export Data in piecemeal or in entirety at its discretion, with reasonable assistance provided by the contractor, at any time during the term of contract. This includes the ability for the State to import or export Data to/from other parties at the State's sole discretion. Contractor shall specify in the Statement of Work if the State is required to provide its' own tools for this purpose, including the optional purchase of contractor's tools if contractor's applications are not able to provide this functionality directly.

Subcontractor Disclosure: Contractor shall identify all of its strategic business partners related to Services, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the contractor, and who may be involved in any application development and/or operations. The contractor shall be responsible for the acts and omissions of its subcontractors, strategic business partners, or other entities or individuals who provide or are involved in the provision of Services.

Compliance with Accessibility Standards: The contractor shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973, or any other state laws or administrative regulations identified by the State.

RFP 24-78424 – Enterprise Decision Support Solutions (EDSS) – Enterprise Data Warehouse (EDW)

Attachment A

Vendor: IT Transformers, Inc. dba Metamor Systems

1. Letter of Commitment
2. Indiana MBE Certification
3. Letter of Agreement



11495 N Pennsylvania St, STE #140
Carmel, IN 46032
Phone: (317) 567-3905
www.metamorsys.com

July 16, 2024

Jeffrey Grosklags
Corporate VP, Finance & Accounting
Optum Government Solutions, Inc.
11000 OPTUM CIR
Eden Prairie, MN 55344

Re: Subcontractor Letter of Commitment in Connection with the EDW Scope of Work Required under the Indiana Request for Proposal 24-78424 for Enterprise Decision Support Solutions (EDSS)

Dear Mr. Grosklags,

IT Transformers, Inc. (DBA Metamor Systems) is an Indiana certified Minority Business Enterprise and is pleased to participate as a subcontractor to Optum Government Solutions, Inc. ("Optum"), in connection with performing some of the EDW Scope of Work required under the above captioned Request for Proposal issued by the Indiana Department of Administration on behalf of the Indiana Family and Social Services Administration (the "State") for EDSS.

By this letter Metamor Systems hereby acknowledges the following details that are set forth in a Letter of Agreement between Metamor Systems and Optum for the bid being submitted by Optum to the State in response to the EDW Scope of Work required under this RFP.

Subcontract Amount as a Percentage of the Total Bid Amount for the EDW Scope: 8.2%

Subcontract Amount in Total Dollars: \$5,172,400.00

Description of Products and/or Services to be Provided on this Project:

As a subcontractor to Prime Contractor Optum Government Solutions, Inc., Metamor Systems will provide relevant, skilled IT staffing for the Indiana EDSS project. Metamor Systems will provide staffing in accordance with the proposed Optum staffing plan and RFP #24-78424 EDW Scope, including the following roles: Human Services Lead, Data Analyst/Health Services SME, BI Developer, Data Analyst/DCS SME, DFR SME, and Data Engineers.

Approximate Date the Subcontractor Will Perform Work on this Contract:

Metamor Systems shall provide the services described above throughout the Initial Term, as defined below (and if renewed, throughout the Renewal Term, as defined below) of the Contract between Optum and the State that will result from Optum's Proposal for the EDW Scope required under the RFP if the State awards such a Contract (the "Prime Contract") to Optum. The estimated commencement date of the Initial Term of the Prime Contract



11495 N Pennsylvania St, STE #140
Carmel, IN 46032
Phone: (317) 567-3905
www.metamorsys.com

shall be March 1, 2025, and the Initial Term shall be four (4) years, with the potential for two (2) one year (1) extensions. The foregoing dates of performance by Metamor Systems shall be subject to early termination provisions that would be set forth in the Subcontract between Metamor Systems and Optum.

Metamor Systems is willing to carry out its responsibilities under this proposal and looks forward to providing the above services for the benefit of the State as a subcontractor to Optum for the EDW Scope on this important project.

Sincerely,

A handwritten signature in black ink, appearing to read "Krishnakumar Padmanabhan", written over a horizontal line.

Krishnakumar Padmanabhan
Chief Operating Officer
Phone: (317)-258-5356
Email: krishna@metamorsys.com



STATE OF INDIANA

Eric J. Holcomb, Governor

DEPARTMENT OF ADMINISTRATION
Division of Supplier Diversity

Indiana Government Center South
402 West Washington Street, Room W462
Indianapolis, IN 46204
(317) 232 - 3061

February 1, 2023

Mr. Bala Krishnamurthy
IT Transformers, Inc. dba Metamor Systems
11495 N. Pennsylvania St., Suite 140
Indianapolis, IN 46032

Subject: Application for MBE Certification

Dear Mr. Bala Krishnamurthy,

Congratulations! The Indiana Department of Administration, Division of Supplier Diversity is pleased to inform you that **IT Transformers, Inc. dba Metamor Systems** is hereby certified as a Minority Business Enterprise (MBE).

Your company provides a commercially useful function in the areas listed below. Only work performed in these areas will be counted towards Minority Business Enterprise participation:

UNSPSC CODE(S)

<i>Code</i>	<i>Description</i>
80101507	Information technology consultation services
80111608	Temporary information technology software developers
80111609	Temporary information technology systems or database administrators
81110000	Computer services
81160000	Information technology service

On September 13, 2010, the Governor’s Commission on Supplier Diversity approved the department’s effort to streamline its recertification process. Instead of conducting an onsite visit to each company seeking recertification, the department now has the discretion to waive the visit after a thorough review of the company’s file and recertification documents. We have approved your recertification and it is valid through **February 28, 2026**. Please note that IDOA continues to reserve the right to conduct a site visit or phone interview at any time with certified companies.

Although your certification is valid for three years, you are required to submit an annual ***Affidavit of Continued Eligibility (ACE)*** form, located at www.in.gov/idoa/mwbe/files/ACE_Form.pdf. Please remember that you must notify us immediately if any changes occur. Failure to notify us of changes or to provide an ACE form annually will result in the revocation of your certification. Changes include, but are not limited to, changes in location, contact information, ownership, and control.

Referencing: **IT Transformers, Inc. dba Metamor Systems**

We encourage you to visit IDOA's procurement website, www.in.gov/idoa/2464.htm, and update your Business Registration Profile. You must review and update your profile regularly, because state purchasing agents and prime contractors may use this information to contact you for business opportunities.

While this letter serves as notification of certification, it does not serve to prove continued eligibility. Please visit <https://www.in.gov/idoa/mwbe/2743.htm> to verify your certification status. Please contact our office at (317) 232-3061 or mwbe@idoa.in.gov if you have any other questions or concerns about your letter.

Sincerely,

Kesha Rich

Kesha Rich, Deputy Commissioner
Indiana Department of Administration
Division of Supplier Diversity

LETTER OF AGREEMENT
EDW SCOPE

This **LETTER OF AGREEMENT**, made and entered into this 12th day of July, 2024 (the “Effective Date”), by and between Optum Government Solutions, Inc. having a place of business at 11000 Optum Circle, Eden Prairie, Minnesota 55344 (hereinafter “Optum” “Team Leader” or “Prime”), and IT Transformers, Inc. (DBA Metamor Systems), having a principal place of business at 11495 N Pennsylvania St, Suite #140, Carmel, IN 46032 (hereinafter “Team Member” or “Subcontractor”).

WHEREAS, the Team Leader and Team Member (hereinafter sometimes collectively referred to as “Team Members” or the “Parties”) are interested in responding to Request for Proposal 24-78424 from the Indiana Department of Administration on behalf of the Family and Social Services Administration (“IN FSSA” or the “Customer”) for Enterprise Decision Support Solutions (EDSS) dated April 19, 2024, as amended (the “RFP”), where such RFP is soliciting the submission of proposals from qualified bidders to provide certain Products and/or Services described herein;

WHEREAS, the Team Members believe that a cooperative effort between them with respect to submitting a proposal for the Project under which the Prime would purchase from the Subcontractor and the Subcontractor would supply to the Prime for resale to the Customer certain services defined herein (the “Services”) will offer the Customer the best combination of capabilities to achieve optimum performance, cost, and delivery for the RFP requirements applicable to the Products and/or Services;

WHEREAS, the Team Members desire to collaborate in preparing a proposal in response to the RFP (“Proposal”) and to set forth their intent on the scope of work to be subcontracted by Prime to Subcontractor and the price to be paid by Prime to Subcontractor under an eventual Subcontract if the Customer accepts Prime’s Proposal and the Team Leader and Customer enter into a Prime Contract, as defined below;

NOW, THEREFORE, in consideration of the foregoing premises, the Team Members hereby agree as follows:

1. **General Undertaking.** The allocation of work schedule set forth in Appendix 1 (“Allocation of Work”) sets forth a general statement of the responsibilities of the Team Members with respect to the proposal effort in response to the RFP and the pricing for all products and/or services to be provided by Subcontractor pursuant to the RFP if the prime contract (“Prime Contract”) is awarded to the Prime. Any amendment to such Allocation of Work shall only be binding on the Team Members under the terms and conditions of this Agreement if signed by the authorized representatives of the Team Members. If the Prime is awarded the Prime Contract by the Customer and the Customer approves the Prime’s use of Subcontractor as a supplier for the products and/or services described in the Allocation of Work, then the Prime may, in its sole discretion, award a subcontract (“Subcontract”) to Team Member in accordance with Section 4 of this Agreement. The Allocation of Work referenced in Section 4 of this Agreement (attached at Appendix 1), and Appendices 2 and 3, shall be used as the basis for negotiation of a Subcontract which will govern the sale by Subcontractor and purchase by Prime of the Subcontractor’s Products and/or Services described in such Allocation of Work and Statement of Work.
2. **Allocation of Responsibilities.** Prime shall: (i) be the primary point of contact with Customer regarding the RFP; (ii) submit the Proposal to the RFP; (iii) be responsible for taking the lead role in conducting any required negotiations with respect to the Prime Contract; and (iv) shall enter into the Prime Contract with Customer.

3. Proposal Preparation. Prime shall: (i) take principal charge of preparing and submitting any Proposal in the response to the RFP; (ii) direct and coordinate all contacts with the Customer pertaining to the preparation of the Proposal to the RFP; (iii) have the final authority for the preparation, evaluation, and submission of the Proposal to the Customer; and (iv) be responsible for directing and coordinating any requests for additional information from the Customer prior to the award of a Prime Contract or the rejection of the Proposal. Subcontractor agrees that Appendix 2 sets forth some of the information required by Prime for inclusion in the Proposal (“Subcontractor Proposal Information”). Subcontractor shall provide Prime with information necessary for Prime to respond to a Proposal or other requests for information from the Customer after the submission of the Proposal within the time constraints imposed by Prime, subject to the condition that Subcontractor is given notice by the Prime with respect to any deadline for a response imposed by Prime or the Customer.
4. Award of Subcontract. Upon award of a Prime Contract to Prime under the RFP, the Team Members agree to negotiate in good faith, within thirty (30) days, a mutually acceptable subcontract, which shall set forth the general terms of the subcontract relationship and shall be substantially consistent with this Agreement, the Proposal, the Allocation of Work, and the Prime Contract (the “Subcontract”). As part of the foregoing commitment, Subcontractor acknowledges and agrees that based on the RFP, the Subcontract shall contain provisions consistent with the Prime’s obligations pursuant to the Prime Contract as such obligations related to the Subcontractor’s Allocation of Work (the “Flow Down Provisions”), which are set forth in Appendix 3 to this Agreement. In the event that the Team Members are unable to agree upon the terms and conditions of the Subcontract within thirty (30) days of the date the Customer has awarded the Prime Contract to Prime, Prime may, in its sole discretion, terminate this Agreement, including the Allocation of Work pursuant to Section 18, and Prime may immediately contract with a third party to perform the tasks referred to in the Allocation of Work.
5. Non-Exclusive. While Subcontractor has the right to partner with other bidders in connection with the RFP as a subcontractor to another party, regardless of tier, to the extent that Subcontractor does so, Subcontractor shall keep any Confidential Information received from Prime confidential in accordance with the terms and conditions set forth in Section 7 below and shall offer Prime pricing no less favorable than that offered to other bidders with whom Subcontractor may elect to bid.
6. Costs and Expenses. Each party shall bear all costs and expenses incurred by it in preparing its part of the Proposal and managing its responsibilities under the Proposal contemplated by this Agreement.
7. Confidential Information. The parties acknowledge the existence of a Mutual Non-Disclosure Agreement between Subcontractor and Prime’s affiliate, Optum Services, Inc. effective May 13, 2024 (the “NDA”). The parties agree that the NDA shall govern the exchange of information pursuant to this Agreement, and the NDA may not be terminated by either party until after expiration or termination of this Agreement, notwithstanding anything contrary set forth herein.
8. Injunctive Relief. The Team Members acknowledge that violation by one party of the provisions of Section 7 (“Confidential Information”) would cause irreparable harm to the other party not adequately compensable by monetary damages. In addition to other relief, it is agreed that either party may seek injunctive relief without necessity of posting bond to prevent any actual or threatened violation of such provisions.
9. Warranties.

- (a) Noninfringement. Each party represents and warrants that its participation in the Proposal effort and the content contributed by it to the Proposal or pursuant to any performance in connection with the Prime Contract will not infringe or misappropriate any copyright, patent, trade secret or other intellectual property right of any third party.
- (b) Disclaimer. PRIME MAKES NO WARRANTY OR ASSURANCE AS TO THE SUCCESS OF ANY PROPOSAL, AND PRIME DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES WITH RESPECT TO ANY PROPOSAL EFFORT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10. Indemnification.

- (a) Subcontractor agrees to indemnify, defend, and hold harmless the Prime or Customer from any and all claims, demands, or actions alleging that the material, information, product or work product resulting from products and/or services furnished by the Subcontractor to the Prime hereunder or furnished by the Subcontractor to a Customer, infringes a patent, copyright, trade secret or other intellectual property right of a third party. If such claim has occurred or, in the Subcontractor's judgment, is likely to occur, the Prime agrees to allow the Subcontractor at Subcontractor's option to procure the right for the Prime or the Customer to continue to use the infringing material, information, product or work product resulting from services in accordance with the terms hereof, or to replace or modify the same so as to render it non-infringing.
- (b) The foregoing indemnities shall be contingent upon the following: the Prime shall: (1) give prompt written notice to Subcontractor of any claim, demand, or action for which indemnity is sought, (2) fully cooperate in the defense or settlement of any such claim, demand, or action, and (3) obtain the prior written agreement of the Subcontractor with respect to any settlement or proposal of settlement (which agreement shall not unreasonably be withheld).

- 11. Limitation of Liabilities. In no event shall either party be liable to the other for any incidental, special, exemplary, or consequential damages, including, without limitation, lost profits, even if such party has been advised of the possibility of such damages.
- 12. Compliance with Laws. Neither party shall take any action in furtherance of the Proposal effort or other activities contemplated hereunder, which is illegal under United States law or any other applicable law, rule or regulation ("Laws"). If a party violates any Laws in connection with the Proposal, such party shall indemnify and hold harmless the other party from all loss, damage and attorney fees arising from any claim relating to such violation.
- 13. Notices. Notices sent to either party shall be effective when delivered in person or transmitted by telecopier ("fax") machine, one (1) day after being sent by overnight courier, or two (2) days after being sent by first class mail postage prepaid to the address set forth above, or at such other address as the Team Members may from time to time give notice. A facsimile of this Agreement, notices, or Allocations of Work generated in good form by a fax machine (as well as a photocopy thereof) shall be treated as "original" documents admissible into evidence, unless a document's authenticity is legitimately placed in question.
- 14. Independent Contractor Status. Each party is an independent contractor in relation to the other party with respect to all matters arising under this Agreement. Nothing herein shall be deemed to

establish a partnership, joint venture, association, or any other form of business association or employment relationship between the Team Members. Neither party is the agent of the other, and neither may bind the other. No profits, losses, or costs will be shared under any provision of this Agreement.

15. Publicity. Any news release, public announcement, advertisement, or publicity (collectively, "Publicity") proposed to be released by either party concerning the Proposal or either party's efforts in connection with the Proposal or any resulting Prime Contract or Subcontract will be subject to the written approval of the other party prior to release. Full consideration and representation of the respective roles and contributions of both Team Members shall be given in any such authorized Publicity.
16. Default. Either party may be declared in default of this Agreement if it breaches any material provision hereof and fails within ten (10) days after receipt of notice of default to correct such default or to commence corrective action reasonably acceptable to the non-breaching party. Either party shall be in default hereof if it becomes insolvent, makes an assignment for the benefit of its creditors, a receiver is appointed or a petition in Bankruptcy is filed with respect to such party.
17. Rights In Inventions. Inventions conceived pursuant to this Agreement shall remain the property of the originating party. In the event of joint inventions, the parties shall engage in good faith negotiations to establish their respective rights. Failing agreement, each party shall have equal ownership and rights in such joint inventions, without further obligation to the other party.
18. Term, Termination. The term of this Agreement (the "Term") shall become effective upon execution of this Agreement by both Team Members and shall remain in full force and effect until terminated upon the first of the following events to occur:
 - (a) a Default by one party under this Agreement that is not cured in accordance with Section 16;
 - (b) mutual agreement of the Team Members to terminate this Agreement;
 - (c) termination by Prime for convenience, subject to thirty (30) days notice by the Prime;
 - (d) written notice from the Customer that it has decided not to award the Prime Contract to any party, or award of the Prime Contract by the Customer to a party other than the Prime and the unsuccessful conclusion of any protests challenging that award;
 - (e) award of the Prime Contract to Prime and execution by the Team Members hereto of a Subcontract as contemplated herein;
 - (f) upon the insolvency, bankruptcy, reorganization under bankruptcy laws, or assignment for the benefit of creditors of either party to the extent that there is a reasonable doubt that such party lacks the resources or ability to properly perform its obligations hereunder;
 - (g) when the RFP is amended such that the services described in Appendix 1 or in the RFP, are no longer required;
 - (h) upon the indictment, suspension or debarment by the government of either party;

- (i) if Team Leader delivers written notice to the Team Member that a Proposal will not be submitted in response to the RFP;
 - (j) the failure of the Team Members to reach an agreement on the terms of a Subcontract within 30 calendar days following award to the Prime, despite the parties reasonable and good faith efforts, or;
 - (k) the expiration of one (1) year from the issuance of the RFP.
19. Miscellaneous. This Agreement may be modified or amended only by a writing signed by the authorized representatives of both Team Members. Neither this Agreement nor any rights or obligations hereunder may be transferred or assigned without the other party's prior written consent. Neither party shall be liable for delays caused by events beyond its reasonable control. Any provision hereof found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect to the extent that the intent of the parties is preserved thereby. Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions. Headings are for reference purposes only and have no substantive effect.
20. Non-Solicitation of Employees. Team Members agree not to knowingly solicit for employment or to knowingly hire the employees of the other party involved in the Proposal preparation for the RFP during the term of this Agreement and for a one (1) year period thereafter. This section shall not restrict in any way the rights of either party to solicit or recruit generally in the media, and shall not prohibit either party from hiring an employee of the other who answers any advertisement or who otherwise voluntarily applies for this without having been personally solicited or recruited by the hiring party.
21. Assignment. This Agreement may not be assigned or otherwise transferred by Team Member, in whole or in part, without the prior written consent of Team Leader.
22. Waiver and Modification. No provision of this Agreement may be waived or modified except by a writing executed by authorized representatives of both parties.
23. Choice of Law and Enforceability. This Agreement shall be construed, governed, interpreted, and applied in accordance with the laws of the State of Minnesota, exclusive of its conflict of laws provisions. The failure to enforce any right or provision herein shall not constitute a waiver of that right or provision. If any provisions herein are found to be unenforceable on the grounds that they are overly broad or in conflict with applicable laws, it is the intent of the parties that such provisions be replaced, reformed or narrowed so that their original business purpose can be accomplished to the extent permitted by law, and that the remaining provisions shall not in any way be affected or impaired thereby.
24. Entire Agreement. This Agreement, the Agreement and the accompanying Appendices entered into by the Parties and integrated herein during the Term hereof, contain the entire agreement between the Team Members with respect to the subject matter hereof and supersede any previous understandings, commitments, or agreements (oral or written) with respect to the RFP or Proposal.

IN WITNESS WHEREOF, the Team Members hereto have caused this Agreement to be executed by their authorized representatives as set forth below.

OPTUM GOVERNMENT SOLUTIONS, INC.

**IT TRANSFORMERS, INC., D/B/A
METAMOR SYSTEMS**

By: 
By: Jeffrey Grosklags (Jul 17, 2024 13:02 CDT)

By: 
By: _____

Name: Jeffrey Grosklags

Name: Krishnakumar Padmanabhan

Title: Chief Financial Officer

Title: Chief Operating Officer

Date: 07/17/2024

Date: 07/15/2024

APPENDIX 1
ALLOCATION OF WORK

A. ALLOCATION OF WORK

The following sets forth a general statement of the allocation of the responsibilities of the Team Members with respect to the Proposal to be submitted in response to the Request for Proposal Request 24-78424 dated April 19, 2024, as amended (the “RFP”) from the Indiana Department of Administration on behalf of the Family and Social Services Administration (“IN FSSA” or the “Customer”) for Enterprise Decision Support Solutions (EDSS) (the “Project”)

1. Description of the Products and/or Services to be provided by Subcontractor, including functions to be performed by Subcontractor.

The following sets forth a general statement of the allocation of the responsibilities of the Team Members with respect to the Proposal to be submitted in response to the RFP, as amended:

The scope of work for which Subcontractor is anticipated to be responsible (the “Subcontractor Allocation of Work”) shall consist of products and services in the following areas from the RFP, where references in the General Project Description to “EDW Contractor” would include Subcontractor, to the extent of Subcontractor’s Deliverables, Responsibilities and Scope of Work set forth in Section 1.2 below:

1.1 General Project Description:

Enterprise Data Warehouse (EDW) Scope

The FSSA Office of Medicaid Policy & Planning (OMPP) and FSSA Division of Family Resources (DFR) are the most significant EDW stakeholders.

While State DST staff manages the EDW, they are supported by two incumbent vendors. The first vendor, at a high level, manages and supports the EDW’s Teradata and Informatica ETL infrastructure and OMPP Data Warehouse (OMPP DW) healthcare-oriented data extraction and reporting. The second vendor supports the Social Services Data Warehouse (SSDW), which is used by several program areas across FSSA, along with other agencies such as the Indiana Department of Health (IDOH). There is some overlap between the two vendors and they both have had roles in furthering the EDW with consolidated infrastructure and standard data warehouse-oriented tools. Note: Although both the Medicaid and social service data extraction and reporting are contained under the Teradata/Informatica platform, they are considered to be two distinct systems.

Though the current EDW is composed of two distinct segments handled by two vendors, the State wishes to combine these responsibilities under one vendor (“EDW Contractor”) for the future state of the EDW, as this Scope of Work describes. It is expected that the Contractor will find resource and cost savings efficiencies in their staffing structure to provide the needed support for both segments, while not sacrificing level of service across distinct State programs (e.g., utilizing a single Project Executive or shared security team who are able to meet service expectations across State teams)

For both segments (i.e., the OMPP DW and the SSDW), the EDW Contractor is expected to provide the following systems and M&O services:

- a. Data warehouse platform infrastructure, tools, and services
- b. Data governance
- c. Clearinghouse, functioning as the staging, ETL (extract, transform, and load) and cleansing clearinghouse for data conversion
- d. Decision support and reporting tools and services
- f. Operational reports (financial reports, program performance measurement, including but not limited to trending and forecasting)
- g. Program management reporting (e.g., using health care data as available through the advancement of Health Information Technology (HIT) in the State)
- h. Business intelligence tools and support staff dedicated to addressing program monitoring and analysis. Data analytic subject matter experts (SMEs) to serve as consultants to FSSA and liaisons to the technical data analytics team
- i. Maintenance and operations (M&O) and enhancements for the SSDW.
- j. Support the reporting needs of FSSA as well as its State and Federal partners, including IDOH and the Department of Child Services (DCS).

The SSDW segment-specific needs of the EDW are:

- Work closely with the State Board of Accounts (SBOA) and DFR concerning TANF audits.
- Work closely with the FSSA Privacy and Security Office and DFR concerning compliance, ongoing risk assessments, and corrective action management for example CMS POAM/Minimum Acceptable Risk Standards for Exchanges (MARS-E) requirements, SSA security requirements, and IRS Publication 1075 Audits.

1.2 Subcontractor's Deliverables, Responsibilities and Scope of Work:

Description of the Products and/or Services to be Provided by Subcontractor, including functions to be performed by Subcontractor. References to Supplier shall mean Subcontractor.

1.2.1 Tasks/Deliverables/Methodology:

Subcontractor's consultants shall be responsible for assisting Prime in performing work related to some or all, but not limited to the following tasks from the RFP:

System Support and Reporting: Manage processes and procedures required to provide technical and functional support.

- Perform resolution of all defects discovered and prioritized by the defined processes.
- Make routine maintenance changes in the ordinary course of the Contractor's provision of services defined within the scope of its Contract (such as changes to operating procedures and schedules) at no additional cost to the State.
- Conduct monitoring and analysis of Service Level Agreements.
- Assist in providing required reports and business intelligence reporting for State and Federal partners.
- Assist in providing State and federally required reports including those for the CMS (e.g., CMS Streamlined Modular Certification (SMC) Reporting), ACF, FNS (e.g., FNS Major Change Reporting), and other State entities
- Assist in the maintenance of legacy HIP and Medicaid reporting requirements
- Assist in the maintenance legacy interface and data sharing requirements.
- Support the continuation and finalization of new reporting requirements, as well as maintenance of resulting reports.

- Support the continuation and finalization of new interface and data sharing requirements, as well as maintenance of resulting interfaces and data sharing mechanisms.
- Provide staff that have knowledge of State and Federal Medicaid laws as well as the ability to navigate Medicaid reporting requirements.
- Provide staff that understand TANF/Maintenance of Effort (MOE), SNAP, EBT, employment and training programs, eligibility determination, application tracking and redetermination tracking, and related State and Federal laws.
- Assist in the management of Operational Data Stores
- Assist in the management of any Data Marts to act as a summarized subset of the enterprise's data specific to a functional area or department, geographical region, or time period. EDW Data Marts:
 - Assist in the management of data marts around the following divisional/agency data: SNAP/TANF, Division of Aging, DMHA, OECOSL, DDRS, DCS, IDOH, Finance, and State Agency data.
 - Assist in the addition of any new data marts as defined by the State
 - Help maintain tool development that includes but is not limited to the following: source data extraction and transformation, data cleansing, data load, data refresh, data access, security enforcement, version control/configuration management, data modeling, and metadata management.
 - Help maintain a notification protocol for all users to report any problem or issue that affects data accuracy or integrity immediately.
 - Maintain the current ETL that involves extracting data from outside sources; transforming it to fit operational needs (which can include quality levels); and loading it into the end target (data mart or data warehouse) and resolving pipeline failures to ensure complete data models.
 - Assist in the management of audit processes and audit trail for historical reference for any records such as deleted records and merged records which complies with Federal laws and guidelines for audits such as annual SAS-70 audit (or its successor), HIPAA Security Rule, compliance with all State and Federal privacy and security regulations.

Enhancements: Design, develop, test, and implement enhancements to the system and reports, including modifications to existing reports, via the integrated change control process.

Service Requests, Incident and Problem Management: Properly plan and conduct services to minimize the occurrence of incidents and/or problems with service delivery. If incidents and/or problems are to arise, the Contractor shall work with the State to resolve issues in a timely manner based on the governance plan and priorities of the State.

Document Management: Maintain and keep up to date all artifacts.

System Expertise: Provide business and technical subject matter expertise on all Data Warehouse managed data and reporting. (Including health data and social services expertise.

Training: Assist in the preparation and presentation of training materials.

Medicaid Information Technology Architecture (MITA) Support: Provide information to the State throughout their support lifecycle regarding applicable MITA maturity of the EDW solution, including maintenance of the conceptual data model and logical data model.

Data Governance: Support the establishment, maintenance, implementation and management of a data management strategy, which will include a data governance plan, staff roles and responsibilities, data catalog plan, metadata creation, data quality strategy, data retention standards, and privacy and data security standards in accordance with State and Federal standards

1.2.2 Subcontractor Personnel:

Subcontractor shall provide sufficient personnel, listed in the staffing table below, in accordance with the requirements of the RFP and in a professional and workmanlike manner. Prime will provide oversight of Subcontractor's work, and Subcontractor staff will be required to report to Optum management as directed by Prime.

Subcontractor shall be responsible for providing personnel for the positions set forth in Section 3 in order to perform the above Subcontractor Allocation of Work, provided such personnel are accepted and approved by Prime and the Customer and where such personnel shall meet the minimum qualifications set forth in the RFP and shall be provided during the Subcontract Term as set forth in the then current Project Plan.

For purposes of this Allocation Of Work, a FTE is assumed to work 1,920 per contract year (160 hours per month), provided, however, that the actual number of hours shall be subject to the mutually agreed upon project plan and authorization from the Prime's Project Manager or his/her designee. Subcontractor agrees that the named Consultant listed below or any mutually agreed upon alternatives shall be made available to work at least 1,920 hours per contract year (160 hours per month) and shall not be reassigned to other projects or otherwise unavailable due to causes within Subcontractor's control. If a named or otherwise approved Consultant is not available to work for this number of hours due to reasons outside of Subcontractor's control, then Subcontractor shall have an obligation to provide an alternative Consultant of equal or better qualifications and experience to the Consultant that had been approved for the applicable position and that is acceptable to Prime and the Customer.

All Services shall be performed by Subcontractor in the continental United States and more specifically, either at Subcontractor's offices in Indiana, remotely, or at the Customer's location(s) in Indiana.

All other Sections of the RFP governing the products and/or services, as defined and described in Prime's Proposal to the Customer shall be performed by Prime, either by itself or through another subcontractor (collectively, the "Prime Allocation of Work").

2. TERM

Approximate dates that Subcontractor shall perform the Subcontractor Allocation of Work:

The dates of performance shall run for the duration of the initial term of the Prime Contract between the Prime and the Customer and any extensions thereof, unless otherwise specified in the then current Project Schedule which Prime shall share with Subcontractor. The estimated commencement date of the initial term of the Prime Contract shall be March 1, 2025 and the initial term shall be four (4) years, with the potential for two (2) one year (1) extensions. The foregoing dates of performance shall be subject to early termination provisions that would be set forth in the Subcontract.

It is anticipated that there will be a ten (10) month initial transition period, where Prime will be

responsible for certain deliverables and will develop and manage plans to transfer services from the incumbent contractor. Following the initial transition period, Prime will take over M&O services, with the assistance of Subcontractor.

3. PRICING AND PAYMENT TERMS

During the Term, it is expected that Prime shall pay Subcontractor the percentage set forth in the State Of Indiana MBE/WBE Subcontractor Commitment Form (the "Percentage") identifying Subcontractor in Prime's Proposal submitted in response to the RFP, subject to the adjustment described in the immediately following paragraph.

In consideration of the foregoing commitment, Subcontractor shall be obligated to furnish personnel for project roles defined herein that meet the qualifications and experience required by Customer and Prime and for the number of hours described herein. If the Customer requires removal of any Subcontractor's personnel or if any of the Subcontractor personnel do not meet the requirements of the Prime Contract, then Subcontractor shall be obligated to provide replacement personnel of equal or better qualifications. Notwithstanding the foregoing, if Subcontractor fails to perform in accordance with the terms of the Allocation Of Work, Prime shall have the right to terminate this Allocation Of Work in whole or in part and Prime's obligation to pay Subcontractor the above Percentage shall be adjusted accordingly. In addition, if and to the extent Prime's MBE commitment to Subcontractor set forth in the Prime Contract changes, Prime shall communicate such change(s) to Subcontractor in writing and such change(s) shall become effective upon Subcontractor immediately with the same legal force and effect as an amendment between Prime and Subcontractor that is signed by the parties' duly authorized representatives.

The hourly rates, as set forth in the table below, are inclusive of travel and living ("T&L") expenses. New and/or replacement resources, if requested and mutually agreed upon by the parties through a future amendment, will be brought in at a negotiated rate based on the market at that time.

Notwithstanding the foregoing regarding the amount of Prime's MBE commitment to Subcontractor, Subcontractor shall invoice Prime on a monthly basis for all actual hours worked during the prior month. As such, Subcontractor may be entitled to invoice and Prime shall be obligated to pay for all hours worked even if the total amount payable over the Term exceeds the amount of Prime's MBE commitment to Subcontractor.

Each invoice shall include a Purchase Order number, description of the actual services and Deliverables provided by Subcontractor, broken down by Consultant. In addition to providing such a description, Subcontractor shall report the hours any of its Consultants work in the Prime time reporting system on a twice per month basis. Subcontractor's invoice(s) shall be payable by Prime within thirty (30) days after receipt of invoice, provided that the Customer has not withheld payment to Prime and provided further that Subcontractor is not in breach of this Agreement.

The Subcontract shall also provide that the price that Prime shall pay Subcontractor for the above services falling within the Subcontractor's Allocation of Work shall be as follows:

Subject to Subcontractor providing the above staff during the Initial Term, the total amount payable to Subcontractor shall not exceed: \$6,520,400.00 ("Optum's Minimum Purchase Commitment Over the Initial Term"), notwithstanding the fact the two pricing tables set forth above have an aggregate not to exceed amount in excess of Optum's Minimum Purchase Commitment over the Initial Term. In addition, if the parties agree to add staff, they shall do so in a written amendment that may include an increase to Optum's Minimum Purchase Commitment over the Initial Term.

Payment terms will be specified in the Subcontract but payment will be based upon Subcontractor providing monthly invoices for hours of Services provided in the prior calendar month with supporting detail. Subcontractor's invoice(s) shall be payable by Prime within thirty (30) days after receipt of invoice, provided that the Customer has not withheld payment to the Prime. All travel-related expenses must be pre-approved by Prime. No overtime shall be billed to and paid by Prime unless Subcontractor has received written approval from the direct Prime supervisor assigned to Subcontractor by Prime.

The Acceptance Criteria for all Services shall be defined as part of the Project Plan that will be mutually agreed upon in writing among the Prime and Subcontractor.

4. MINORITY OWNED BUSINESS COMMITMENT

Subcontractor understands that its services and resources play an important and vital role in helping Optum meet its small business commitment, which is required during the term of the Prime Contract. For the duration of Subcontract, Subcontractor shall maintain its Indiana Certification as a minority owned business and provide appropriate documentation of such to Prime upon request. Additionally, all resources provided by Subcontractor shall be viewed as key personnel, where such resources cannot be removed from the project unless there is prior Optum written approval, and only if Subcontractor has replacement personnel for Optum to approve in a timely manner such that the small business spend commitment is not reduced. Replacement personnel shall be at the same skill level and shall be at or below the rate stated in this Agreement for the applicable role. Should Subcontractor fail to perform or fill vacant roles in a timely manner, Optum may reduce its spend commitment to Subcontractor.

IN WITNESS WHEREOF, the Team Members hereto have caused this Appendix 1, Allocation of Work, inclusive of the pricing, to be executed by their authorized representatives as set forth below.

OPTUM GOVERNMENT SOLUTIONS, INC.

**IT TRANSFORMERS, INC., D/B/A
METAMOR SYSTEMS**

By: 
By: Jeffrey Grosklags (Jul 17, 2024 13:02 CDT)

By: 
By: _____

Name: Jeffrey Grosklags

Name: Krishnakumar Padmanabhan

Title: Chief Financial Officer

Title: Chief Operating Officer

Date: 07/17/2024

Date: 07/15/2024

APPENDIX 2

SUBCONTRACTOR PROPOSAL INFORMATION

Subcontractor shall provide assistance to the Prime in its Proposal as follows:

1. Provide resumes and photos for all personnel from Subcontractor for consideration by Prime and if Prime and Subcontractor agree to use such personnel, for inclusion in the Proposal
2. Provide pricing-related information in order for the Prime to submit a compliant Cost Proposal under the RFP.
3. As further specified by Prime, provide information regarding Subcontractor's experience working with Prime and Customer, and providing services substantially similar to those under the RFP.
4. Be named as a subcontractor with a company bio in the Proposal.
5. Provide Subcontractor company information, as required, including but not limited to, FEIN, corporate address, and licenses and permits held.
6. Maintain Indiana Certification as a minority owned business and provide documentation to Prime.
7. MBE Certification Letter provided by IDOA, MBE Letter of Commitment on Metamor letterhead for the EDW (i.e., SSDW) scope of work, and any additional forms required for the Proposal.
8. If required, provide information about past contract performance, including termination of contracts for failure to perform and references.
9. Any additional information or assistance reasonably requested by the Prime or otherwise required by the RFP.

APPENDIX 3

FLOW DOWN PROVISIONS

Subcontractor shall provide the services described in Appendix 1 in accordance with, and subject to, compliance by Subcontractor with, those terms of the Contract that apply to the scope of such Services (the "Flow Down Provisions"), where such Flow Down Provisions shall be included in any Subcontract. Unless the context requires otherwise, references in the Contract to "Offeror," "Contractor," or "subcontractor" shall, for purposes of these Flow Down Provisions, be deemed to be references to "Subcontractor." References to "FSSA" or "Department" or "State" shall be deemed to be references to "Optum" or "Prime", unless the context requires that they instead be deemed to stay as references to FSSA, Department or the State, as set forth below. References to "contract" shall be deemed to be the Subcontract between Optum and Subcontractor.

For purposes of clarity, the Flow Down Provisions shall include the following provisions from the Contract that apply either to Subcontractor by virtue of the Subcontractor Allocation of Work or to Subcontractor in its capacity as a subcontractor.

RFP:

Conflict of Interest

Any person, firm or entity that assisted with and/or participated in the preparation of this solicitation document is prohibited from submitting a proposal to this specific solicitation. For the purposes of this solicitation, a "person" means a State officer, employee, special State appointee, or any individual or entity working with or advising the State or involved in the preparation of this solicitation proposal. This prohibition would also apply to an entity who hires, within a one-year period prior to the publication of this solicitation, a person that assisted with and/or participated in the preparation of this solicitation.

Sample Contract, Attachment B:

Access to Records.

The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

Assignment of Antitrust Claims.

As part of the consideration for the award of this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

Audits.

The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-11-1, et seq., and audit guidelines specified by the State.

The State considers the Contractor to be a "Contractor" under 2 C.F.R. 200.331 for purposes of this Contract. However, if it is determined that the Contractor is a "subrecipient" and if required by applicable

provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), Contractor shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 et seq.

Compliance with Laws.

- A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

- B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, et seq., IC § 4-2-7, et seq. and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.** If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

- C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

- D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

- E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall

not be subject to penalty or interest, except as permitted by IC § 5-17-5.

- F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC § 5-22-3-7:

(1) The Contractor and any principals of the Contractor certify that:

(A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:

- (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
- (ii) IC §24-5-12 [Telephone Solicitations]; or
- (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

(B) the Contractor will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

(2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

Confidentiality, Security and Privacy of Personal Information.

Definitions.

- 1) Personally Identifiable Information (“PII”) means personal information as collectively defined in IC-4-1-6-1 and IC 4-1-11-2 and under the National Institute of Standards and Technology (“NIST”) Special Publication 800-122, regardless of form (oral, written, electronic, or otherwise). As used here, PII includes PHI, SSA-data, and ACA-PII (as defined herein) as applicable, whether or not separately stated.
 - 2) Data Breach means the loss of control, compromise, unauthorized disclosure, unauthorized access or acquisition, or any similar occurrence where: a person other than an authorized user accesses or potentially accesses PII or other confidential information; or an authorized user accesses PII or other confidential information for other than an authorized purpose.
 - 3) Security Incident means an occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information the information system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.
 - 4) Confidential Information means information that is not publicly available under State or Federal laws, regulations, administrative code or rules, or as otherwise deemed confidential by the State.
 - 5) FedRAMP means the Federal Risk and Authorization Management Program.
 - 6) Terms used, but otherwise not defined in this Contract shall have the same meaning as those found in 45 CFR Parts 160, 162, and 164, and 45 CFR Subtitle A.
 - 7) “HIPAA” means the Health Insurance Portability and Accountability Act of 1996 (sections 1171 through 1179 of the Social Security Act), including any subsequent amendments to such Act.
 - 8) “HIPAA Rules” mean the rules adopted by and promulgated by the US Department of Health and Human services (“HHS”) under HIPAA and other relevant Federal laws currently in force or subsequently made, such as the Health Information Technology for Economic and Clinical Health Act (“HITECH”), as enumerated under 45 CFR Parts 160, 162, and 164, including without limitation any and all additional or modified regulations thereof. Subsets of the HIPAA Rules include:
 - a. “HIPAA Enforcement Rule” as defined in 45 CFR Part 160;
 - b. “HIPAA Security Rule” as defined in 45 CFR Part 164, Subparts A and C;
 - c. “HIPAA Breach Rule” as defined in 45 CFR Part 164, Subparts A and D; and
 - d. “HIPAA Privacy Rule” as defined in 45 CFR Part 164, Subparts A and E.
- B. If Contractor’s services under this Contract includes State authorized access to and use of PHI on the State’s behalf then Contractor is hereby deemed a Business Associate to the State and, as such, Contractor is hereby authorized by the State to create, receive, maintain, use, and/or transmit Protected Health Information (“PHI”) on the State’s behalf pursuant to and consistent with the services performed by Contractor under this Contract.
- C. Contractor is hereby authorized by the State to create, receive, maintain, use and/or transmit PII on the State’s behalf pursuant to and consistent with the services performed by Contractor under

this Contract. As used here, PII includes PHI, SSA-data, and ACA PII (as defined herein) as applicable, whether or not separately stated.

- D. Contractor understands that pursuant to and consistent with the services performed by Contractor under this Contract, Contractor may be permitted authorized access to data obtained by the State from the Social Security Administration (“SSA-data”). In this regard and to the extent that Contractor is permitted authorized access and use of SSA-data:
- 1) Contractor agrees that it will comply with the provisions of the Computer Matching and Privacy Protection Act Agreement (“CMPPA”) and the Information Exchange Agreement (“IEA”) executed between the Social Security Administration (“SSA”) and the State; these agreements are incorporated herein by reference and current copies of the CMPPA and IEA are attached to this Contract;
 - 2) Contractor further agrees that it will abide by all relevant Federal laws and restrictions on access, use, and disclosure of SSA-data, including the security requirements enumerated in the CMPPA and IEA;
 - 3) Contractor understands that its access, use, or disclosure of SSA-data in a manner or purpose not authorized by the CMPPA or IEA may subject Contractor, including Contractor’s employees, agents, and subcontractors, to civil and criminal sanctions pursuant to applicable Federal statutes; and,
 - 4) Contractor understands that the State, in compliance with the CMPPA, will undertake a review of Contractor’s compliance with Contractor’s obligations under the CMPPA, IEA, and this Contract no less than triennially; Contractor agrees to fully cooperate with the State in such reviews. Such reviews may be undertaken by the State in addition to or as part of other reviews of Contractor’s privacy and security policies, procedures, and practices undertaken by the State pursuant to this Contract.
- E. Contractor agrees that as a Business Associate to the State it is obligated to comply with the HIPAA Rules, as such Rules apply to Business Associates, throughout the term of this Contract and thereafter as may be required by Federal law and such compliance will be at Contractor’s sole expense. Further:
- 1) Contractor will not use or further disclose PHI or PII except as expressly permitted by this Contract or as required by law. It is further provided that nothing in this Contract shall be construed to permit Contractor use or disclose PHI in a manner that would violate the provisions of the HIPAA Privacy Rule as such Rule applies to the State with regard to the services performed by Contractor under this Contract or otherwise cause the State to be non-compliant with the HIPAA Privacy Rule.
 - 2) Contractor understands it must fully comply with the HIPAA Security Rule and will employ appropriate and compliant safeguards to reasonably prevent the use or disclosure of PHI and PII other than as permitted by this Contract or required by the HIPAA Privacy Rule or other applicable Federal or state law or regulation. Such safeguards will be designed, implemented, operated, and managed by Contractor at Contractor’s sole expense and following the Contractor’s best professional judgment regarding such safeguards. Upon the State’s reasonable request, Contractor will review such safeguards with the State.

- 3) Contractor understands that it is subject to the HIPAA Enforcement Rule under which Contractor may be subject to criminal and civil penalties for violations of and non-compliance with the HIPAA Rules.

F. Improper Disclosure, Security Incident, and Breach Notification.

- 1) As a Business Associate Contractor understands that it is subject to the HIPAA Breach Rule.
- 2) If a Security Incident occurs or if Contractor suspects that a Security Incident may have occurred with respect to PII in Contractor's safekeeping or as otherwise being legitimately used by Contractor in Contractor's performance of its services under this Contract:
 - a) Contractor shall notify the State of the Security Incident within twenty-four (24) hours of when Contractor discovered the Security Incident; such notification shall be made to the FSSA Privacy & Security Office in a manner reasonably prescribed by the FSSA Privacy & Security Officer and shall include as much detail as the Contractor reasonably may be able to acquire within the twenty-four (24) hour period.
 - b) For the purposes of such Security Incidents, "discovered" and "discovery" shall mean the first day on which such Security Incident is known to the Contractor or, by exercising reasonable diligence, would have been known to the Contractor. Regardless of whether the Contractor failed to exercise reasonable diligence, improperly delaying the notification of discovery beyond the twenty-four (24) hour requirement, the Contractor will notify the FSSA Privacy & Security Office within twenty-four (24) hours of gaining actual knowledge of a Security Incident.
 - c) In collaboration with the FSSA Privacy & Security Office, Contractor shall undertake all commercially reasonable efforts necessary to thoroughly investigate the Security Incident and to provide all results of such investigation to the FSSA Privacy & Security Office, including but not limited to Contractor personnel involved, source and cause of the Security Incident, specific information disclosed or possibly exposed, disclosure victims (those whose PII was disclosed or may have been disclosed or exposed to unauthorized access/use), disclosure recipients, supporting materials, actions taken to mitigate or stop the Security Incident, and similar details.
 - d) Contractor's investigation must be undertaken expeditiously and completed to the extent that a determination of whether a Breach has occurred can be reasonably made, including the identification of the victims or likely victims, within a reasonable timeframe as mutually agreed upon with the FSSA Privacy & Security Office, from the date of discovery of the Security Incident. Contractor shall provide details of its investigation to the FSSA Privacy & Security Office on an ongoing basis until the investigation is complete.
 - e) Contractor and the FSSA Privacy & Security Office will collaborate on the results of Contractor's investigation; the determination as to whether a Breach has occurred rests solely with the FSSA Privacy & Security Office.
 - f) If it is determined by the FSSA Privacy & Security Office that a Breach has occurred:

- I. Contractor agrees that it shall be responsible for, including all costs with respect to, fulfilling the State's and/or Contractor's obligations for notice to all of the known and suspected victims of the Breach. Such notice shall comply with the HIPAA Breach Rule notification requirements and/or applicable notification requirements under State law or regulation.
 - II. Contractor further agrees that such notification will be made under its name, unless otherwise specified by the FSSA Privacy & Security Office. Contractor will coordinate its Breach notification efforts with the FSSA Privacy & Security Office; the FSSA Privacy & Security Office will approve Contractor's Breach notification procedures and plans, including the format and content of the notice(s) prior to such notification being made.
 - III. Contractor accepts full responsibility for the Breach and any resulting losses or damages incurred by the State or any victim of the Breach.
 - IV. Contractor will undertake all commercially reasonable efforts necessary to mitigate any deleterious effects of the Breach for the known and suspected victims of the Breach.
 - V. The State, through the FSSA Privacy & Security Office, will make the appropriate notifications to HHS and/or the applicable Federal or State agencies with respect to the Breach, unless the Contractor is directed to do so by the FSSA Privacy & Security Office.
- g) Contractor will undertake commercially reasonable corrective actions to eliminate or minimize to the greatest degree possible the opportunity for an identified Security Incident to reoccur and provide the FSSA Privacy & Security Office with its plans, status updates, and written certification of completion regarding such corrective actions.
- 3) If Contractor observes or otherwise becomes aware of a Security Incident or suspected Security Incident outside of Contractor's scope of responsibilities under this Contract (for example, affecting PII not in Contractor's safekeeping), Contractor agrees to promptly report such Security Incidents to the FSSA Privacy & Security Office and cooperate with the FSSA Privacy & Security Office's investigation of the Security Incident.
- G. Subcontractors. Contractor agrees that in accordance with the HIPAA Privacy Rule, CMPPA, IEA, and 45 CFR §155.260 any subcontractors engaged by Contractor (in compliance with this Contract) that will create, receive, maintain, use or transmit State PII on Contractor's behalf will contractually agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such PII.
- H. Access by Individuals to their PHI/PII. Contractor acknowledges that in accordance with the HIPAA Privacy Rule and 470 IAC 1-3-1, *et seq*, individuals for whom Contractor has direct possession of their PHI/PII on the State's behalf have the right to inspect and amend their PHI/PII, and have the right for an accounting of uses and disclosures of such PHI/PII, except as otherwise provided therein. Contractor shall provide such right of inspection, amendment, and accounting of disclosures to such individuals upon reasonable request by the State (or by such individuals if the State directly refers such individuals to Contractor). In situations in which

Contractor does not have direct possession of such PHI/PII, then the State shall be responsible for such inspection, amendment, and accounting of disclosures rights by individuals.

- I. Access to Records. Contractor shall make available to HHS and/or the State and/or other Federal agencies so authorized by law Contractor's internal practices, books, and records relating to the use and disclosure of PHI and PII provided to Contractor by the State or created, received, maintained, used, or transmitted by Contractor on the State's behalf. Contractor shall promptly inform the State by giving notice to the FSSA Privacy & Security Office of any request by HHS (or its designee), other State agencies, or other Federal agencies for such internal practices, books, and/or records and shall provide the State with copies of any materials or other information made available to such agencies.
- J. Return of Protected Health Information. Upon request by the State or upon termination of this Contract, Contractor will, at the State's sole option, either return or destroy all copies of any PHI or PII provided to Contractor by the State, including PHI or PII created, received, maintained, used or transmitted by Contractor on the State's behalf and Contractor shall warrant in writing that it has returned or destroyed such PHI and/or PII. Further, upon termination of this agreement Contractor will not retain any copies of any such PHI and PII and shall warrant same in writing.
- K. At the sole discretion of the State, the State may terminate this Contract for Contractor's material breach of this Section.
- L. Contractor agrees to participate in a disaster recovery plan, as appropriate to the Contractor's services, as determined by the State to be necessary to uphold integral business functions in the event of an unforeseen disaster.
- M. Drug and Alcohol Records. In the performance of the services under this Contract, Contractor may have access to confidential information regarding alcohol and drug abuse patient records. Contractor agrees that such information is confidential and protected information and promises and assures that any such information, regardless of form, disclosed to Contractor for the purposes of this Contract will not be disclosed or discussed with others without the prior written consent of the State. The Contractor and the State will comply with the applicable requirements of 42 CFR Part 2 and any other applicable Federal or state law or regulatory requirement concerning such information. The Contractor will report any unauthorized disclosures of such information in compliance with this Section.
- N. Confidentiality of State Information. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon, or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by Contractor for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this Section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses

for which it is liable under the terms of this Contract. The Contractor shall report any unauthorized disclosures of Social Security numbers to the FSSA Privacy & Security Office within one (1) business day of the date of discovery in accordance with this Section.

- O. Contractor will indemnify and hold the State harmless from any loss, damage, costs, expense, judgment, sanction or liability, including, but not limited to, attorneys' fees and costs, that the State incurs or is subject to, as a result of a breach of this Section by the Contractor or any subcontractor, agent or person under Contractor's control. In the event a claim is made against the State for any such claim, cause of action, liability, damage, cost or expense, State may, at its sole option: (i) tender the defense to Contractor, who shall provide qualified and competent counsel to represent the State interest at Contractor's expense; or (ii) undertake its own defense, utilizing such professionals as it deems reasonably necessary, holding Contractor responsible for all reasonable costs thereof. In any event, the State shall have the sole right to control and approve any settlement or other compromise of any claim brought against it that is covered by this Section.
- P. Contractor shall adhere to all relevant FSSA Security Policies for any related activities provided to FSSA under this Contract. Contractor is responsible for verifying that any subcontractors they engage will also comply with these policies. Any exceptions to these policies require written approval from the FSSA Privacy & Security Office.

Q. Access to FSSA and/or State Information Systems.

- 1) "FSSA and/or State Information Systems" means all computing hardware and related components, all computer software and related components, all network devices and related functions, and data owned by, licensed to, in the legal custody of, and/or operated by FSSA and/or the State.
- 2) If the Contractor, in the performance of Contractor's services under this Contract, is authorized and granted by the State with access to FSSA and/or State Information Systems:
 - a) Contractor agrees that it and all members of its workforce (as used here, "workforce" means employees, volunteers, interns, trainees, (sub)contractors, and other persons whose conduct is under the control of Contractor) performing such services will comply with all FSSA and State Privacy and Security Policies and Procedures.
 - b) All members of Contractor's workforce who are or will be granted access to FSSA and/or State Information Systems will undertake and certify completion of all FSSA and State mandated privacy and security training following a schedule reasonably required by FSSA and the State (e.g., upon new hire/assignment and annually thereafter).
 - c) All members of Contractor's workforce who are or will be granted access to FSSA and/or State Information systems will agree in writing or through electronic confirmation to the rules of behavior regarding access to and use of FSSA and/or State information systems; such rules of behavior include, but are not limited to the State Information Technology Resources User Policy ("ITR").
 - d) All members of Contractor's workforce who are or will be granted access to the FSSA Division of Family Resources ("DFR") eligibility and enrollment systems, a

subset of FSSA Information Systems as defined by DFR, will agree in writing or through electronic confirmation to the DFR Rules of Behavior.

- e) Such training and rules of behavior agreement(s) will be coordinated with Contractor by the FSSA Privacy and Security Office and the Indiana Office of Technology (“IOT”).
- f) Any members of Contractor’s workforce who fail to complete the required training as described above within the scheduled timeframes or who fail to agree to the rules of behavior will not be permitted to access FSSA and/or State information systems.
- g) Access to and usage of FSSA and/or State Information Systems is controlled through role-based access privileges and follows the principle of least privilege, meaning users are granted access to/usage of only the minimum amount of information and system functions necessary to perform their role or job assignment. As such, FSSA or its designee will provide Contractor with a list of roles it deems necessary for Contractor to perform the services; Contractor will identify each individual workforce member who requires access to/usage of FSSA and/or State Information Systems and the role to be assigned to each individual. Contractor will certify in writing that the role assigned to each individual workforce member is necessary and appropriate for the individual to perform their job assignment with respect to the performance of Contractor’s services under this Contract.
- h) FSSA will authorize and grant Contractor workforce member access privileges based on the requested and certified role in a timely manner; FSSA and IOT reserve the right to withdraw such authorization for any workforce member, with or without cause, at any time and without prior notice.
- i) Contractor agrees to notify the FSSA Privacy and Security Office or its designee within twenty-four (24) hours of any workforce member terminations or changes in workforce member assignment that would affect their need for access or role.
- j) Contractor agrees that it is solely responsible for the actions, including errors and omissions, intentional misconduct, or malfeasance of its workforce members with respect to their access to and usage of FSSA and/or State Information Systems.
- k) The FSSA Privacy and Security Office (or its designee) and Contractor will collaborate on the methods and means to identify workforce members requiring access, certification, changes, and other communications under this subsection.

R. 45 CFR §155.260 Compliance.

- 1) FSSA participates in a PII data exchange with the Centers for Medicare and Medicaid services (“CMS”) mandated under the Affordable Care Act (“ACA”, Public Law 111-148). The receipt of PII data from CMS through this data exchange (“ACA PII”) is in support of the determination of eligibility for healthcare coverage for individuals, which is a primary function of DFR. DFR is designated as the Administering Entity on behalf of FSSA under a computer matching agreement with CMS and, per the terms of that agreement, is obligated to comply with the provisions of 45 CFR §155.260 and §155.280 regarding the privacy and

security of ACA PII and that such compliance will be achieved through the application of the privacy and security standards and obligations established in the Minimum Acceptable Risk Standards for Exchanges (“MARS-E”) promulgated by CMS, including any subsequent versions issued by CMS.

- 2) 45 CFR §155.260(b)(2)(v) requires DFR on behalf of FSSA to bind all downstream entities with which ACA PII is shared to same privacy and security standards and obligations that DFR is obligated to comply with, subject to the provisions under 45 CFR §155.260(b)(3) and in compliance with the monitoring provisions under 45 CFR §155.280.
- 3) In this regard (pursuant to the immediately preceding):
 - i. Contractor understands that in the performance of its services under this Contract Contractor will be given access to and usage of ACA PII to the extent necessary to perform such services; such access and usage of ACA PII is hereby authorized by the State.
 - ii. Contractor agrees that such ACA PII is subject to the same provisions of this Section as apply to PII and PHI, including but not limited to subsection F Improper Disclosure, Security Incident, and Breach Notification.
 - iii. Contractor further agrees that it will employ privacy and security standards over such ACA PII that are consistent with and being at least as protective as the privacy and security standards employed by DFR as described in paragraph 1) above taking into consideration: (i) the environment in which the Contractor is operating; (ii) whether specific standards are relevant and applicable to the Contractor’s duties and activities in the performance of the services; and, (iii) existing legal requirements to which Contractor is bound in relation to its administrative, technical, and operational controls and practices, including but not limited to, its existing data handling and information technology processes and protocols.
 - iv. Contractor additionally agrees that the privacy and security standards it employs over ACA PII will be consistent with the principles established in 45 CFR §155.260(a)(3) and that Contractor will bind any subcontractors with authorized access to ACA PII to the same or at least as protective as the privacy and security standards Contractor employs over ACA PII.
 - v. Contractor agrees that it will comply with the applicable provisions under 45 CFR §155.260 as a non-exchange entity; specifically, Contractor will comply with the MARS-E 2.2 privacy and security control requirements and with any subsequent versions of those control requirements promulgated by CMS with Contractor’s compliance with those subsequent versions to be achieved by the compliance date established by CMS in such subsequent versions.

Debarment and Suspension.

- A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department,

agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

- B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

Drug-Free Workplace Certification.

As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them 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 violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

Employment Eligibility Verification.

As required by IC § 22-5-1.7, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:

- A. The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.
- B. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.
- C. The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

Force Majeure.

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

Indemnification.

The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State will not provide indemnification to the Contractor.

Independent Contractor; Workers' Compensation Insurance.

The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

Information Technology Enterprise Architecture Requirements.

If this Contract involves information technology-related products or services, the Contractor agrees that all such products or services are compatible with any of the technology standards found at <https://www.in.gov/iot/2394.htm> that are applicable, including the assistive technology standard. The State may terminate this Contract for default if the terms of this paragraph are breached.

The Contractor specifically agrees that all hardware, software and services provided to or purchased by FSSA will comply with the privacy and security standards enumerated in the current version of the Minimum Acceptable Risk Standards for Exchanges (MARS-E) promulgated by the US Department of Health and Human Services Centers for Medicare & Medicaid Services (CMS). CMS will publish future versions of MARS-E and the Contractor agrees, at its sole expense, to modify all hardware, software, and services provided under this agreement to be compliant with such future versions within the timeframe mandated by CMS.

Insurance.

- A. The Contractor and its subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:
 - 1) Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability

arising directly or indirectly under or in connection with this Contract.

- 2) Automobile liability for owned, non-owned and hired autos with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.
- 3) Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract.
- 4) Fiduciary liability if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others with limits no less than \$700,000 per cause of action and \$5,000,000 in the aggregate.
- 5) Valuable Papers coverage, if applicable, with an Inland Marine Policy Insurance with limits sufficient to pay for the re-creation and reconstruction of such records.
- 6) Surety or Fidelity Bond(s) if required by statute or by the agency.
- 7) Cyber Liability addressing risks associated with electronic transmissions, the internet, networks and informational assets, and having limits of no less than \$700,000 per occurrence and \$5,000,000 in the aggregate.

The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage meeting all statutory requirements of IC § 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana. All insurance documents are to be sent electronically to insurancedocuments.fssa@fssa.in.gov.

B. The Contractor's insurance coverage must meet the following additional requirements:

- 1) The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
- 2) Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
- 3) The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in

this Contract.

- 4) The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
- 5) The Contractor waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana.

Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

Licensing Standards.

The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

Nondiscrimination.

Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). The Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

The State is a recipient of federal funds, and therefore, where applicable, the Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

Ownership of Documents and Materials.

All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State. If ownership interest in the Materials cannot be assigned to the State, the Contractor grants the State a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials.

Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by the State and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the State full, immediate, and unrestricted access to the Materials and to Contractor's work product during the term of this Contract.

Public Record.

The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and will post this Contract on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

Waiver of Rights.

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

Work Standards.

The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

Federally Required Clauses.

The Contractor must comply with the following provisions:

A. Executive Order 11246, entitled "Equal Employment Opportunity," as supplemented by the Department of Labor Regulations (41 CFR Part 60): The Executive Order prohibits, among other things, federal contractors and federally assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

Contractor will compile data, maintain records, and submit reports as required to permit effective enforcement of nondiscrimination laws, regulations, policies, instructions, and guidelines. This agreement permits authorized USDA personnel to review such records, books, and accounts as needed during hours of program operation to ascertain compliance.

B. The Clean Air Act, Section 306:

a. No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.

b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).

c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

C. The Clean Water Act:

a. No Federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall

continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:

i. requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and

ii. setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

e. The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

f. (1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section. (2) In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

D. The Anti-Lobbying Act: This Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the applicant certifies that:

a. 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 making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;

b. 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 federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

E. Americans with Disabilities Act: This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.

F. Drug Free Workplace Statement: The Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:

- a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace.
- b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
- c. Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.
- d. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the Indiana Family and Social Services Administration that abuse of this drug will also not be tolerated in the workplace.
- e. Contractors of federal agencies are required to certify that they will provide drugfree workplaces for their employees.

G. Debarment, suspension, and other responsibility matters: As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110.

- a. The applicant certifies that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - ii. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

iv. Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default.

b. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

H. The federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes, the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant or any rights of copyright to which a contractor purchases ownership

I. Civil Rights Compliance and Enforcement Assurance

a. The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

Additional Terms and Conditions, Attachments B1, B2, B3

Data Ownership: The State owns all rights, title, and interest in the Data. The contractor shall not access State user accounts or Data, except: (1) in the normal course of data center operations; (2) in response to Service or technical issues; (3) as required by the express terms of this contract, applicable Statement of Work, or applicable Service Level Agreement; or (4) at the State's written request.

Contractor shall not collect, access, or use Data except as strictly necessary to provide Service to the State. No information regarding State's use of the Service may be disclosed, provided, rented, or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. This obligation shall survive and extend beyond the term of this contract.

Data Protection: Protection of personal privacy and Data shall be an integral part of the business activities of the contractor to ensure there is no inappropriate or unauthorized use of Data at any time. To this end, the contractor shall safeguard the confidentiality, integrity, and availability of Data and shall comply with the following conditions:

- a. The contractor shall implement and maintain appropriate administrative, technical, and organizational security measures to safeguard against unauthorized access, disclosure, or theft of Data. Contractor shall implement and maintain heightened security measures with respect to Encrypted Data. Such security measures shall be in accordance with Indiana Office of Technology practice and recognized industry practice, including but not limited to the following:
 1. Information Security Framework; and
 2. Indiana Office of Technology Cloud Product and Service Agreements, Standard ID: IOT-CS-SEC-010.
- b. All Encrypted Data shall be subject to controlled access. Any stipulation of responsibilities shall be included in the Statement of Work and will identify specific roles and responsibilities.
- c. The contractor shall encrypt all Data at rest and in transit. The State may, in the Statement of Work, identify Data it deems as that which may be publicly disclosed that is not subject to encryption. Data so designated may be maintained without encryption at rest and in transit. The level of protection and encryption for all Encrypted Data shall meet or exceed that required in the Information Security Framework.
- d. At no time shall any Data or processes — that either belong to or are intended for the use of State — be copied, disclosed, or retained by the contractor or any party related to the contractor for subsequent use in any transaction that does not include the State.
- e. The contractor shall not use any information collected in connection with the Services for any purpose other than fulfilling its obligations under the contract.

Data Location: Storage of Data at rest shall be located solely in data centers in the United States and the contractor shall provide its Services to the State and its end users solely from locations in the United States. The contractor shall not store Data on portable devices, including personal laptop and desktop computers. The contractor shall access Data remotely only as required to provide technical support. The contractor shall provide technical user support on a 24/7 basis unless specified otherwise in the Service Level Agreement.

Notice Regarding Security Incident or Data Breach:

- a. Incident Response: contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries, and seeking external expertise as mutually agreed upon, defined by law, or contained in the contract. Discussing Security Incidents and Data Breaches with the State must be handled on an urgent

basis, as part of contractor's communication and mitigation processes as mutually agreed upon in the Service Level Agreement, contained in the contract, and in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.

b. Security Incident Reporting Requirements: The contractor shall report a Security Incident to the State-identified contact(s) as soon as possible by telephone and email, but in no case later than two (2) days after the Security Incident occurs. Notice requirements may be clarified in the Service Level Agreement and shall be construed in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.

c. Data Breach Reporting Requirements: If a Data Breach occurs, the contractor shall do the following in accordance with IC 4-1-11 and IC 24-4.9 as they may apply: (1) as soon as possible notify the State-identified contact(s) by telephone and email, but in no case later than two (2) days after the Data Breach occurs unless a shorter notice period is required by applicable law; and (2) take commercially-reasonable measures to address the Data Breach in a timely manner. Notice requirements may be clarified in the Service Level Agreement. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

Responsibilities Regarding Data Breach: This section applies when a Data Breach occurs with respect to Encrypted Data within the possession or control of the contractor.

a. The contractor shall: (1) cooperate with the State as reasonably requested by the State to investigate and resolve the Data Breach; (2) promptly implement necessary remedial measures, if necessary; and (3) document and provide to the State responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the Services, if necessary.

b. Unless stipulated otherwise in the Statement of Work, if a Data Breach is a result of the contractor's breach of its contractual obligation to encrypt Data or otherwise prevent its release as reasonably determined by the State, the contractor shall bear the costs associated with: (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators, or others required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (3) a credit monitoring service required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (4) a website or a toll-free number and call center for affected individuals required by federal and/or state law — all of which shall not amount to less than the average per-record per-person cost calculated for data breaches in the United States (in, for example, the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the Data Breach); and (5) complete all corrective actions as reasonably determined by contractor based on root cause and on advice received from the Indiana Office of Technology. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

Notification of Legal Requests: If the contractor is requested or required by deposition or written questions, interrogatories, requests for production of documents, subpoena, investigative demand or similar process to disclose any Data, the contractor will provide prompt written notice to the State and will cooperate with the State's efforts to obtain an appropriate protective order or other reasonable assurance that such Data will be accorded confidential treatment that the State may deem necessary.

Termination and Suspension of Service:

a. In the event of a termination of the contract, the contractor shall implement an orderly return of Data in a mutually agreeable and readable format. The contractor shall provide to the State any information that may be required to determine relationships between data rows or columns. It shall do so at a time agreed to by the parties or shall allow the State to extract its Data. Upon confirmation from the State, the contractor shall securely dispose of the Data.

b. During any period of Service suspension, the contractor shall not take any action that results in the erasure of Data or otherwise dispose of any of the Data.

c. In the event of termination of any Services or contract in its entirety, the contractor shall not take any action that results in the erasure of Data until such time as the State provides notice to contractor of confirmation of successful transmission of all Data to the State or to the State's chosen vendor.

During this period, the contractor shall make reasonable efforts to facilitate the successful transmission of Data. The contractor shall be reimbursed for all phase-out costs (i.e., costs incurred within the agreed period after contract expiration or termination that result from the transfer of Data or other information to the State). A reimbursement rate shall be agreed upon by the parties during contract negotiation and shall be memorialized in the Statement of Work. After such period, the contractor shall have no obligation to maintain or provide any Data and shall thereafter, unless legally prohibited, delete all Data in its systems or otherwise in its possession or under its control. The State shall be entitled to any post-termination assistance generally made available with respect to the Services, unless a unique data retrieval arrangement has been established as part of a Service Level Agreement.

d. Upon termination of the Services or the contract in its entirety, contractor shall, within 30 days of receipt of the State's notice given in 7(c) above, securely dispose of all Data in all of its forms, including but not limited to, CD/DVD, backup tape, and paper. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the State upon completion.

Background Checks: The contractor shall conduct a Federal Bureau of Investigation Identity History Summary Check for each employee involved in provision of Services: (1) upon commencement of the contract; (2) prior to hiring a new employee; and (3) for any employee upon the request of the State. The contractor shall not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to one (1) year is an authorized penalty. The contractor shall promote and maintain an awareness of the importance of securing the State's information among the contractor's employees, subcontractors, and agents. If any individual providing Services under the contract is not acceptable to the State, in its sole opinion, as a result of the background or criminal history investigation, the State, in its sole option shall have the right to either: (1) request immediate replacement of the individual; or (2) immediately terminate the contract, related Statement of Work, and related Service Level Agreement.

Contract Audit: The contractor shall allow the State to audit conformance to the contract terms. The State may perform this audit or contract with a third party at its discretion and at the State's expense.

Non-disclosure and Separation of Duties: The contractor shall enforce role-based access control, separation of job duties, require commercially-reasonable nondisclosure agreements, and limit staff knowledge of Data to that which is absolutely necessary to perform job duties. The contractor shall annually provide to the State a list of individuals that have access to the Data and/or the ability to service the systems that maintain the Data.

Import and Export of Data: The State shall have the ability to import or export Data in piecemeal or in entirety at its discretion, with reasonable assistance provided by the contractor, at any time during the term of contract. This includes the ability for the State to import or export Data to/from other parties at the State's sole discretion. Contractor shall specify in the Statement of Work if the State is required to provide its' own tools for this purpose, including the optional purchase of contractor's tools if contractor's applications are not able to provide this functionality directly.

Subcontractor Disclosure: Contractor shall identify all of its strategic business partners related to Services, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the contractor, and who may be involved in any application development and/or operations. The contractor shall be responsible for the acts and omissions of its subcontractors, strategic business partners, or other entities or individuals who provide or are involved in the provision of Services.

Compliance with Accessibility Standards: The contractor shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973, or any other state laws or administrative regulations identified by the State.

RFP 24-78424 – Enterprise Decision Support Solutions (EDSS) – Enterprise Data Warehouse (EDW)

Attachment A

Vendor: **RCR Technology Corporation**

1. Letter of Commitment
2. Indiana MBE Certification
3. Letter of Agreement

RCR Technology Corporation

9450 N. Meridian Street | Suite 300 | Indianapolis, IN 46260
Tel: 317.624.9500 | Fax: 317.631.3345 | www.rcrtechnology.com



July 16, 2024

Jeffrey Grosklags
Corporate VP, Finance & Accounting
Optum Government Solutions, Inc.
11000 OPTUM CIR
Eden Prairie, MN 55344

Re: Subcontractor Letter of Commitment in Connection with the EDW Scope Required under the Indiana Request for Proposal 24-78424 for Enterprise Decision Support Solutions (EDSS)

Dear Mr. Grosklags,

RCR Technology Corporation ("RCR") is an Indiana certified Minority Business Enterprise and is pleased to participate as a subcontractor to Optum Government Solutions, Inc. ("Optum"), in connection with performing some of the EDW Scope of Work required under the above captioned Request for Proposal issued by the Indiana Department of Administration on behalf of the Indiana Family and Social Services Administration (the "State") for EDSS.

By this letter RCR hereby acknowledges the following details that are set forth in a Letter of Agreement between RCR Technology and Optum for the bid being submitted by Optum to the State in response to the EDW Scope of Work required under this RFP.

Subcontract Amount as a Percentage of the Total Bid Amount for the EDW Scope: 5.2%

Subcontract Amount in Total Dollars: \$3,268,000.00

Description of Products and/or Services to be Provided on this Project:

As a subcontractor to Prime Contractor Optum Government Solutions, Inc., RCR will provide skilled IT staffing for the Indiana EDSS project. RCR will provide staffing in accordance with the proposed Optum staffing plan and RFP #24-78424, EDW Scope including the following roles: Project Manager, Embedded Data Analysts, Data Analysts, Quality Analysts, SNAP/TANF SME Project Manager, and Business Analyst.

Approximate Date the Subcontractor Will Perform Work on this Contract:

RCR Technology shall provide the services described above throughout the Initial Term, as defined below (and if renewed, throughout the Renewal Term, as defined below) of the Contract between Optum and the State that will result from Optum's Proposal for the EDW Scope required under the RFP if the State awards such a Contract (the "Prime Contract") to Optum. The estimated commencement date of the Initial Term of the Prime Contract shall be March 1, 2025, and the Initial Term shall be four (4) years, with

RCR Technology Corporation

9450 N. Meridian Street | Suite 300 | Indianapolis, IN 46260
Tel: 317.624.9500 | Fax: 317.631.3345 | www.rcrtechnology.com



the potential for two (2) one year (1) extensions. The foregoing dates of performance by RCR Technology shall be subject to early termination provisions that would be set forth in the Subcontract between RCR Technology and Optum.

RCR is willing to carry out its responsibilities under this proposal and looks forward to providing the above services for the benefit of the State as a subcontractor to Optum for the EDW Scope on this important project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert Reed'.

Robert Reed
President



RCR Technology Corporation

9450 N. Meridian Street | Suite 300 | Indianapolis, IN 46260
Tel: 317.624.9500 | Fax: 317.631.3345 | www.rcrtechnology.com





STATE OF INDIANA

Eric J. Holcomb, Governor

DEPARTMENT OF ADMINISTRATION
Division of Supplier Diversity

Indiana Government Center South
402 West Washington Street, Room W462
Indianapolis, IN 46204
(317) 232 - 3061

July 28, 2022

Mr. Robert Reed
RCR Technology Corporation
9450 N. Meridian St., Ste 300
Indianapolis, IN 46260

Subject: Application for MBE Certification

Dear Mr. Reed,

Congratulations! The Indiana Department of Administration, Division of Supplier Diversity is pleased to inform you that **RCR Technology Corporation** is hereby certified as a Minority Business Enterprise (MBE).

Your company provides a commercially useful function in the areas listed below. Only work performed in these areas will be counted towards Minority Business Enterprise participation:

UNSPSC CODE(S)

<i>Code</i>	<i>Description</i>
43210000	Computer equipment and accessories
80111604	Temporary technician staffing needs
81110000	Computer services
81111600	Computer programmers
81112002	Data processing or preparation services
43212200	Computer data storage management systems
81162200	Cloud-based infrastructure as a service
43232400	Development software
43232700	Network applications software

On September 13, 2010, the Governor’s Commission on Supplier Diversity approved the department’s effort to streamline its recertification process. Instead of conducting an onsite visit to each company seeking recertification, the department now has the discretion to waive the visit after a thorough review of the company’s file and recertification documents. We have approved your recertification and it is valid through **July 1, 2025**. Please note that IDOA continues to reserve the right to conduct a site visit or phone interview at any time with certified companies.

Although your certification is valid for three years, you are required to submit an annual ***Affidavit of Continued Eligibility (ACE)*** form, located at www.in.gov/idoa/mwbe/files/ACE_Form.pdf. Please remember that you must notify us immediately if any changes occur. Failure to notify us of changes or to provide an ACE form annually will result in the revocation of your certification. Changes include, but are not limited to, changes in location, contact information, ownership, and control.

Referencing: RCR Technology Corporation

We encourage you to visit IDOA's procurement website, www.in.gov/idoa/2464.htm, and update your Business Registration Profile. You must review and update your profile regularly, because state purchasing agents and prime contractors may use this information to contact you for business opportunities.

While this letter serves as notification of certification, it does not serve to prove continued eligibility. Please visit <https://www.in.gov/idoa/mwbe/2743.htm> to verify your certification status. Please contact our office at (317) 232-3061 or mwbe@idoa.in.gov if you have any other questions or concerns about your letter.

Sincerely,

Kesha Rich

Kesha Rich, Deputy Commissioner
Indiana Department of Administration
Division of Supplier Diversity

KR/rsd

LETTER OF AGREEMENT
EDW SCOPE

This **LETTER OF AGREEMENT**, made and entered into this 12th day of July, 2024 (the “Effective Date”), by and between Optum Government Solutions, Inc. having a place of business at 11000 Optum Circle, Eden Prairie, Minnesota 55344 (hereinafter “Optum” “Team Leader” or “Prime”), and RCR Technology Corporation, having a principal place of business at 9450 N. Meridian Street, Suite 300, Indianapolis, IN 46260 (hereinafter “Team Member” or “Subcontractor”).

WHEREAS, the Team Leader and Team Member (hereinafter sometimes collectively referred to as “Team Members” or the “Parties”) are interested in responding to Request for Proposal 24-78424 from the Indiana Department of Administration on behalf of the Family and Social Services Administration (“IN FSSA” or the “Customer”) for Enterprise Decision Support Solutions (EDSS) dated April 19, 2024, as amended (the “RFP”), where such RFP is soliciting the submission of proposals from qualified bidders to provide certain Products and/or Services described herein;

WHEREAS, the Team Members believe that a cooperative effort between them with respect to submitting a proposal for the Project under which the Prime would purchase from the Subcontractor and the Subcontractor would supply to the Prime for resale to the Customer certain services defined herein (the “Services”) will offer the Customer the best combination of capabilities to achieve optimum performance, cost, and delivery for the RFP requirements applicable to the Products and/or Services;

WHEREAS, the Team Members desire to collaborate in preparing a proposal in response to the RFP (“Proposal”) and to set forth their intent on the scope of work to be subcontracted by Prime to Subcontractor and the price to be paid by Prime to Subcontractor under an eventual Subcontract if the Customer accepts Prime’s Proposal and the Team Leader and Customer enter into a Prime Contract, as defined below;

NOW, THEREFORE, in consideration of the foregoing premises, the Team Members hereby agree as follows:

1. **General Undertaking.** The allocation of work schedule set forth in Appendix 1 (“Allocation of Work”) sets forth a general statement of the responsibilities of the Team Members with respect to the proposal effort in response to the RFP and the pricing for all products and/or services to be provided by Subcontractor pursuant to the RFP if the prime contract (“Prime Contract”) is awarded to the Prime. Any amendment to such Allocation of Work shall only be binding on the Team Members under the terms and conditions of this Agreement if signed by the authorized representatives of the Team Members. If the Prime is awarded the Prime Contract by the Customer and the Customer approves the Prime’s use of Subcontractor as a supplier for the products and/or services described in the Allocation of Work, then the Prime may, in its sole discretion, award a subcontract (“Subcontract”) to Team Member in accordance with Section 4 of this Agreement. The Allocation of Work referenced in Section 4 of this Agreement (attached at Appendix 1), and Appendices 2 and 3, shall be used as the basis for negotiation of a Subcontract which will govern the sale by Subcontractor and purchase by Prime of the Subcontractor’s Products and/or Services described in such Allocation of Work and Statement of Work.
2. **Allocation of Responsibilities.** Prime shall: (i) be the primary point of contact with Customer regarding the RFP; (ii) submit the Proposal to the RFP; (iii) be responsible for taking the lead role in conducting any required negotiations with respect to the Prime Contract; and (iv) shall enter into the Prime Contract with Customer.

3. Proposal Preparation. Prime shall: (i) take principal charge of preparing and submitting any Proposal in the response to the RFP; (ii) direct and coordinate all contacts with the Customer pertaining to the preparation of the Proposal to the RFP; (iii) have the final authority for the preparation, evaluation, and submission of the Proposal to the Customer; and (iv) be responsible for directing and coordinating any requests for additional information from the Customer prior to the award of a Prime Contract or the rejection of the Proposal. Subcontractor agrees that Appendix 2 sets forth some of the information required by Prime for inclusion in the Proposal (“Subcontractor Proposal Information”). Subcontractor shall provide Prime with information necessary for Prime to respond to a Proposal or other requests for information from the Customer after the submission of the Proposal within the time constraints imposed by Prime, subject to the condition that Subcontractor is given notice by the Prime with respect to any deadline for a response imposed by Prime or the Customer.
4. Award of Subcontract. Upon award of a Prime Contract to Prime under the RFP, the Team Members agree to negotiate in good faith, within thirty (30) days, a mutually acceptable subcontract, which shall set forth the general terms of the subcontract relationship and shall be substantially consistent with this Agreement, the Proposal, the Allocation of Work, and the Prime Contract (the “Subcontract”). As part of the foregoing commitment, Subcontractor acknowledges and agrees that based on the RFP, the Subcontract shall contain provisions consistent with the Prime’s obligations pursuant to the Prime Contract as such obligations related to the Subcontractor’s Allocation of Work (the “Flow Down Provisions”), which are set forth in Appendix 3 to this Agreement. In the event that the Team Members are unable to agree upon the terms and conditions of the Subcontract within thirty (30) days of the date the Customer has awarded the Prime Contract to Prime, Prime may, in its sole discretion, terminate this Agreement, including the Allocation of Work pursuant to Section 18, and Prime may immediately contract with a third party to perform the tasks referred to in the Allocation of Work.
5. Exclusivity. Subcontractor hereby agrees to partner solely with Prime in connection with the RFP and shall not submit a proposal to the RFP, whether as a prime contractor or as a subcontractor to another party, regardless of tier, other than as a subcontractor to Prime for as long as this Agreement remains in effect.
6. Costs and Expenses. Each party shall bear all costs and expenses incurred by it in preparing its part of the Proposal and managing its responsibilities under the Proposal contemplated by this Agreement.
7. Confidential Information. The parties acknowledge the existence of a Mutual Non-Disclosure Agreement between Subcontractor and Prime’s affiliate, Optum Services, Inc. effective March 19, 2024 (the “NDA”). The parties agree that the NDA shall govern the exchange of information pursuant to this Agreement, and the NDA may not be terminated by either party until after expiration or termination of this Agreement, notwithstanding anything contrary set forth herein.
8. Injunctive Relief. The Team Members acknowledge that violation by one party of the provisions of Section 7 (“Confidential Information”) would cause irreparable harm to the other party not adequately compensable by monetary damages. In addition to other relief, it is agreed that either party may seek injunctive relief without necessity of posting bond to prevent any actual or threatened violation of such provisions.
9. Warranties.
 - (a) Noninfringement. Each party represents and warrants that its participation in the Proposal

effort and the content contributed by it to the Proposal or pursuant to any performance in connection with the Prime Contract will not infringe or misappropriate any copyright, patent, trade secret or other intellectual property right of any third party.

- (b) Disclaimer. PRIME MAKES NO WARRANTY OR ASSURANCE AS TO THE SUCCESS OF ANY PROPOSAL, AND PRIME DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES WITH RESPECT TO ANY PROPOSAL EFFORT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10. Indemnification.

- (a) Subcontractor agrees to indemnify, defend, and hold harmless the Prime or Customer from any and all claims, demands, or actions alleging that the material, information, product or work product resulting from products and/or services furnished by the Subcontractor to the Prime hereunder or furnished by the Subcontractor to a Customer, infringes a patent, copyright, trade secret or other intellectual property right of a third party. If such claim has occurred or, in the Subcontractor's judgment, is likely to occur, the Prime agrees to allow the Subcontractor at Subcontractor's option to procure the right for the Prime or the Customer to continue to use the infringing material, information, product or work product resulting from services in accordance with the terms hereof, or to replace or modify the same so as to render it non-infringing.
- (b) The foregoing indemnities shall be contingent upon the following: the Prime shall: (1) give prompt written notice to Subcontractor of any claim, demand, or action for which indemnity is sought, (2) fully cooperate in the defense or settlement of any such claim, demand, or action, and (3) obtain the prior written agreement of the Subcontractor with respect to any settlement or proposal of settlement (which agreement shall not unreasonably be withheld).

11. Limitation of Liabilities. In no event shall either party be liable to the other for any incidental, special, exemplary, or consequential damages, including, without limitation, lost profits, even if such party has been advised of the possibility of such damages.
12. Compliance with Laws. Neither party shall take any action in furtherance of the Proposal effort or other activities contemplated hereunder, which is illegal under United States law or any other applicable law, rule or regulation ("Laws"). If a party violates any Laws in connection with the Proposal, such party shall indemnify and hold harmless the other party from all loss, damage and attorney fees arising from any claim relating to such violation.
13. Notices. Notices sent to either party shall be effective when delivered in person or transmitted by telecopier ("fax") machine, one (1) day after being sent by overnight courier, or two (2) days after being sent by first class mail postage prepaid to the address set forth above, or at such other address as the Team Members may from time to time give notice. A facsimile of this Agreement, notices, or Allocations of Work generated in good form by a fax machine (as well as a photocopy thereof) shall be treated as "original" documents admissible into evidence, unless a document's authenticity is legitimately placed in question.
14. Independent Contractor Status. Each party is an independent contractor in relation to the other party with respect to all matters arising under this Agreement. Nothing herein shall be deemed to establish a partnership, joint venture, association, or any other form of business association or

employment relationship between the Team Members. Neither party is the agent of the other, and neither may bind the other. No profits, losses, or costs will be shared under any provision of this Agreement.

15. Publicity. Any news release, public announcement, advertisement, or publicity (collectively, "Publicity") proposed to be released by either party concerning the Proposal or either party's efforts in connection with the Proposal or any resulting Prime Contract or Subcontract will be subject to the written approval of the other party prior to release. Full consideration and representation of the respective roles and contributions of both Team Members shall be given in any such authorized Publicity.
16. Default. Either party may be declared in default of this Agreement if it breaches any material provision hereof and fails within ten (10) days after receipt of notice of default to correct such default or to commence corrective action reasonably acceptable to the non-breaching party. Either party shall be in default hereof if it becomes insolvent, makes an assignment for the benefit of its creditors, a receiver is appointed or a petition in Bankruptcy is filed with respect to such party.
17. Rights In Inventions. Inventions conceived pursuant to this Agreement shall remain the property of the originating party. In the event of joint inventions, the parties shall engage in good faith negotiations to establish their respective rights. Failing agreement, each party shall have equal ownership and rights in such joint inventions, without further obligation to the other party.
18. Term, Termination. The term of this Agreement (the "Term") shall become effective upon execution of this Agreement by both Team Members and shall remain in full force and effect until terminated upon the first of the following events to occur:
 - (a) a Default by one party under this Agreement that is not cured in accordance with Section 16;
 - (b) mutual agreement of the Team Members to terminate this Agreement;
 - (c) termination by Prime for convenience, subject to thirty (30) days notice by the Prime;
 - (d) written notice from the Customer that it has decided not to award the Prime Contract to any party, or award of the Prime Contract by the Customer to a party other than the Prime and the unsuccessful conclusion of any protests challenging that award;
 - (e) award of the Prime Contract to Prime and execution by the Team Members hereto of a Subcontract as contemplated herein;
 - (f) upon the insolvency, bankruptcy, reorganization under bankruptcy laws, or assignment for the benefit of creditors of either party to the extent that there is a reasonable doubt that such party lacks the resources or ability to properly perform its obligations hereunder;
 - (g) when the RFP is amended such that the services described in Appendix 1 or in the RFP, are no longer required;
 - (h) upon the indictment, suspension or debarment by the government of either party;

- (i) if Team Leader delivers written notice to the Team Member that a Proposal will not be submitted in response to the RFP;
 - (j) the failure of the Team Members to reach an agreement on the terms of a Subcontract within 30 calendar days following award to the Prime, despite the parties reasonable and good faith efforts, or;
 - (k) the expiration of one (1) year from the issuance of the RFP.
19. Miscellaneous. This Agreement may be modified or amended only by a writing signed by the authorized representatives of both Team Members. Neither this Agreement nor any rights or obligations hereunder may be transferred or assigned without the other party's prior written consent. Neither party shall be liable for delays caused by events beyond its reasonable control. Any provision hereof found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect to the extent that the intent of the parties is preserved thereby. Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions. Headings are for reference purposes only and have no substantive effect.
20. Non-Solicitation of Employees. Team Members agree not to knowingly solicit for employment or to knowingly hire the employees of the other party involved in the Proposal preparation for the RFP during the term of this Agreement and for a one (1) year period thereafter. This section shall not restrict in any way the rights of either party to solicit or recruit generally in the media, and shall not prohibit either party from hiring an employee of the other who answers any advertisement or who otherwise voluntarily applies for this without having been personally solicited or recruited by the hiring party.
21. Assignment. This Agreement may not be assigned or otherwise transferred by Team Member, in whole or in part, without the prior written consent of Team Leader.
22. Waiver and Modification. No provision of this Agreement may be waived or modified except by a writing executed by authorized representatives of both parties.
23. Choice of Law and Enforceability. This Agreement shall be construed, governed, interpreted, and applied in accordance with the laws of the State of Minnesota, exclusive of its conflict of laws provisions. The failure to enforce any right or provision herein shall not constitute a waiver of that right or provision. If any provisions herein are found to be unenforceable on the grounds that they are overly broad or in conflict with applicable laws, it is the intent of the parties that such provisions be replaced, reformed or narrowed so that their original business purpose can be accomplished to the extent permitted by law, and that the remaining provisions shall not in any way be affected or impaired thereby.
24. Entire Agreement. This Agreement, the Agreement and the accompanying Appendices entered into by the Parties and integrated herein during the Term hereof, contain the entire agreement between the Team Members with respect to the subject matter hereof and supersede any previous understandings, commitments, or agreements (oral or written) with respect to the RFP or Proposal.

IN WITNESS WHEREOF, the Team Members hereto have caused this Agreement to be executed by their authorized representatives as set forth below.

OPTUM GOVERNMENT SOLUTIONS, INC.


By: Jeffrey Grosklags (Jul 17, 2024 13:03 CDT)

Name: Jeffrey Grosklags

Title: Chief Financial Officer

Date: 07/17/2024

RCR TECHNOLOGY CORPORATION


By: Robert Reed (Jul 15, 2024 13:07 EDT)

Name: Robert Reed

Title: President

Date: 07/15/2024

APPENDIX 1
ALLOCATION OF WORK

A. ALLOCATION OF WORK

The following sets forth a general statement of the allocation of the responsibilities of the Team Members with respect to the Proposal to be submitted in response to the Request for Proposal Request 24-78424 dated April 19, 2024, as amended (the “RFP”) from the Indiana Department of Administration on behalf of the Family and Social Services Administration (“IN FSSA” or the “Customer”) for Enterprise Decision Support Solutions (EDSS) (the “Project”)

1. Description of the Products and/or Services to be provided by Subcontractor, including functions to be performed by Subcontractor.

The following sets forth a general statement of the allocation of the responsibilities of the Team Members with respect to the Proposal to be submitted in response to the RFP, as amended:

The scope of work for which Subcontractor is anticipated to be responsible (the “Subcontractor Allocation of Work”) shall consist of products and services in the following areas from the RFP, where references in the General Project Description to “EDW Contractor” would include Subcontractor, to the extent of Subcontractor’s Deliverables, Responsibilities and Scope of Work set forth in Section 1.2 below:

1.1 General Project Description:

Enterprise Data Warehouse (EDW) Scope

The FSSA Office of Medicaid Policy & Planning (OMPP) and FSSA Division of Family Resources (DFR) are the most significant EDW stakeholders.

While State DST staff manages the EDW, they are supported by two incumbent vendors. The first vendor, at a high level, manages and supports the EDW’s Teradata and Informatica ETL infrastructure and OMPP Data Warehouse (OMPP DW) healthcare-oriented data extraction and reporting. The second vendor supports the Social Services Data Warehouse (SSDW), which is used by several program areas across FSSA, along with other agencies such as the Indiana Department of Health (IDOH). There is some overlap between the two vendors and they both have had roles in furthering the EDW with consolidated infrastructure and standard data warehouse-oriented tools. Note: Although both the Medicaid and social service data extraction and reporting are contained under the Teradata/Informatica platform, they are considered to be two distinct systems.

Though the current EDW is composed of two distinct segments handled by two vendors, the State wishes to combine these responsibilities under one vendor (“EDW Contractor”) for the future state of the EDW, as this Scope of Work describes. It is expected that the Contractor will find resource and cost savings efficiencies in their staffing structure to provide the needed support for both segments, while not sacrificing level of service across distinct State programs (e.g., utilizing a single Project Executive or shared security team who are able to meet service expectations across State teams)

For both segments (i.e., the OMPP DW and the SSDW), the EDW Contractor is expected to provide the following systems and M&O services:

- a. Data warehouse platform infrastructure, tools, and services
- b. Data governance
- c. Clearinghouse, functioning as the staging, ETL (extract, transform, and load) and cleansing clearinghouse for data conversion
- d. Decision support and reporting tools and services
- f. Operational reports (financial reports, program performance measurement, including but not limited to trending and forecasting)
- g. Program management reporting (e.g., using health care data as available through the advancement of Health Information Technology (HIT) in the State)
- h. Business intelligence tools and support staff dedicated to addressing program monitoring and analysis. Data analytic subject matter experts (SMEs) to serve as consultants to FSSA and liaisons to the technical data analytics team
- i. Maintenance and operations (M&O) and enhancements for the SSDW.
- j. Support the reporting needs of FSSA as well as its State and Federal partners, including IDOH and the Department of Child Services (DCS).

The SSDW segment-specific needs of the EDW are:

- Work closely with the State Board of Accounts (SBOA) and DFR concerning TANF audits.
- Work closely with the FSSA Privacy and Security Office and DFR concerning compliance, ongoing risk assessments, and corrective action management for example CMS POAM/Minimum Acceptable Risk Standards for Exchanges (MARS-E) requirements, SSA security requirements, and IRS Publication 1075 Audits.

1.2 Subcontractor's Deliverables, Responsibilities and Scope of Work:

Description of the Products and/or Services to be Provided by Subcontractor, including functions to be performed by Subcontractor. References to Supplier shall mean Subcontractor.

1.2.1 Tasks/Deliverables/Methodology:

Subcontractor's consultants shall be responsible for assisting Prime in performing work related to some or all, but not limited to the following tasks from the RFP:

System Support and Reporting: Manage processes and procedures required to provide technical and functional support.

- Perform resolution of all defects discovered and prioritized by the defined processes.
- Make routine maintenance changes in the ordinary course of the Contractor's provision of services defined within the scope of its Contract (such as changes to operating procedures and schedules) at no additional cost to the State.
- Conduct monitoring and analysis of Service Level Agreements.
- Assist in providing required reports and business intelligence reporting for State and Federal partners.
- Assist in providing State and federally required reports including those for the CMS (e.g., CMS Streamlined Modular Certification (SMC) Reporting), ACF, FNS (e.g., FNS Major Change Reporting), and other State entities (
- Assist in the maintenance of legacy HIP and Medicaid reporting requirements
- Assist in the maintenance legacy interface and data sharing requirements.
- Support the continuation and finalization of new reporting requirements, as well as maintenance of resulting reports.

- Support the continuation and finalization of new interface and data sharing requirements, as well as maintenance of resulting interfaces and data sharing mechanisms.
- Provide staff that have knowledge of State and Federal Medicaid laws as well as the ability to navigate Medicaid reporting requirements.
- Provide staff that understand TANF/Maintenance of Effort (MOE), SNAP, EBT, employment and training programs, eligibility determination, application tracking and redetermination tracking, and related State and Federal laws.
- Assist in the management of Operational Data Stores
- Assist in the management of any Data Marts to act as a summarized subset of the enterprise's data specific to a functional area or department, geographical region, or time period. EDW Data Marts:
 - Assist in the management of data marts around the following divisional/agency data: SNAP/TANF, Division of Aging, DMHA, OECOSL, DDRS, DCS, IDOH, Finance, and State Agency data.
 - Assist in the addition of any new data marts as defined by the State
 - Help maintain tool development that includes but is not limited to the following: source data extraction and transformation, data cleansing, data load, data refresh, data access, security enforcement, version control/configuration management, data modeling, and metadata management.
 - Help maintain a notification protocol for all users to report any problem or issue that affects data accuracy or integrity immediately.
 - Maintain the current ETL that involves extracting data from outside sources; transforming it to fit operational needs (which can include quality levels); and loading it into the end target (data mart or data warehouse) and resolving pipeline failures to ensure complete data models.
 - Assist in the management of audit processes and audit trail for historical reference for any records such as deleted records and merged records which complies with Federal laws and guidelines for audits such as annual SAS-70 audit (or its successor), HIPAA Security Rule, compliance with all State and Federal privacy and security regulations.

Enhancements: Design, develop, test, and implement enhancements to the system and reports, including modifications to existing reports, via the integrated change control process.

Service Requests, Incident and Problem Management: Properly plan and conduct services to minimize the occurrence of incidents and/or problems with service delivery. If incidents and/or problems are to arise, the Contractor shall work with the State to resolve issues in a timely manner based on the governance plan and priorities of the State.

Document Management: Maintain and keep up to date all artifacts.

System Expertise: Provide business and technical subject matter expertise on all Data Warehouse managed data and reporting. (Including health data and social services expertise.

Training: Assist in the preparation and presentation of training materials

Medicaid Information Technology Architecture (MITA) Support: Provide information to the State throughout their support lifecycle regarding applicable MITA maturity of the EDW solution, including maintenance of the conceptual data model and logical data model.

Data Governance: Support the establishment, maintenance, implementation and management of a data management strategy, which will include a data governance plan, staff roles and responsibilities, data catalog plan, metadata creation, data quality strategy, data retention standards, and privacy and data security standards in accordance with State and Federal standards

1.2.2 Subcontractor Personnel:

Subcontractor shall provide sufficient personnel, listed in the staffing table below, in accordance with the requirements of the RFP and in a professional and workmanlike manner. Prime will provide oversight of Subcontractor’s work, and Subcontractor staff will be required to report to Optum management as directed by Prime.

Subcontractor shall be responsible for providing personnel for the positions set forth in Section 3 in order to perform the above Subcontractor Allocation of Work, provided such personnel are accepted and approved by Prime and the Customer and where such personnel shall meet the minimum qualifications set forth in the RFP and shall be provided during the Subcontract Term as set forth in the then current Project Plan.

For purposes of this Allocation Of Work, a FTE is assumed to work 1,920 per contract year (160 hours per month), provided, however, that the actual number of hours shall be subject to the mutually agreed upon project plan and authorization from the Prime’s Project Manager or his/her designee. Subcontractor agrees that the named Consultant listed below or any mutually agreed upon alternatives shall be made available to work at least 1,920 hours per contract year (160 hours per month) and shall not be reassigned to other projects or otherwise unavailable due to causes within Subcontractor’s control. If a named or otherwise approved Consultant is not available to work for this number of hours due to reasons outside of Subcontractor’s control, then Subcontractor shall have an obligation to provide an alternative Consultant of equal or better qualifications and experience to the Consultant that had been approved for the applicable position and that is acceptable to Prime and the Customer.

All Services shall be performed by Subcontractor in the continental United States and more specifically, either at Subcontractor’s offices in Indiana, remotely, or at the Customer’s location(s) in Indiana.

All other Sections of the RFP governing the products and/or services, as defined and described in Prime’s Proposal to the Customer shall be performed by Prime, either by itself or through another subcontractor (collectively, the “Prime Allocation of Work”).

2. TERM

Approximate dates that Subcontractor shall perform the Subcontractor Allocation of Work:

The dates of performance shall run for the duration of the initial term of the Prime Contract between the Prime and the Customer and any extensions thereof, unless otherwise specified in the then current Project Schedule which Prime shall share with Subcontractor. The estimated commencement date of the initial term of the Prime Contract shall be March 1, 2025 and the initial term shall be four (4) years, with the potential for two (2) one year (1) extensions. The foregoing dates of performance shall be subject to early termination provisions that would be set forth in the Subcontract.

It is anticipated that there will be a ten (10) month initial transition period, where Prime will be responsible for certain deliverables and will develop and manage plans to transfer services from the incumbent contractor. Following the initial transition period, Prime will take over M&O services, with the assistance of Subcontractor.

3. PRICING AND PAYMENT TERMS

During the Term, it is expected that Prime shall pay Subcontractor the percentage set forth in the State Of Indiana MBE/WBE Subcontractor Commitment Form (the "Percentage") identifying Subcontractor in Prime's Proposal submitted in response to the RFP, subject to the adjustment described in the immediately following paragraph.

In consideration of the foregoing commitment, Subcontractor shall be obligated to furnish personnel for project roles defined herein that meet the qualifications and experience required by Customer and Prime and for the number of hours described herein. If the Customer requires removal of any Subcontractor's personnel or if any of the Subcontractor personnel do not meet the requirements of the Prime Contract, then Subcontractor shall be obligated to provide replacement personnel of equal or better qualifications. Notwithstanding the foregoing, if Subcontractor fails to perform in accordance with the terms of the Allocation Of Work, Prime shall have the right to terminate this Allocation Of Work in whole or in part and Prime's obligation to pay Subcontractor the above Percentage shall be adjusted accordingly. In addition, if and to the extent Prime's MBE commitment to Subcontractor set forth in the Prime Contract changes, Prime shall communicate such change(s) to Subcontractor in writing and such change(s) shall become effective upon Subcontractor immediately with the same legal force and effect as an amendment between Prime and Subcontractor that is signed by the parties' duly authorized representatives.

The hourly rates, as set forth in the table below, are inclusive of travel and living ("T&L") expenses. New and/or replacement resources, if requested and mutually agreed upon by the parties through a future amendment, will be brought in at a negotiated rate based on the market at that time.

Notwithstanding the forgoing regarding the amount of Prime's MBE commitment to Subcontractor, Subcontractor shall invoice Prime on a monthly basis for all actual hours worked during the prior month. As such, Subcontractor may be entitled to invoice and Prime shall be obligated to pay for all hours worked even if the total amount payable over the Term exceeds the amount of Prime's MBE commitment to Subcontractor.

Each invoice shall include a Purchase Order number, description of the actual services and Deliverables provided by Subcontractor, broken down by Consultant. In addition to providing such a description, Subcontractor shall report the hours any of its Consultants work in the Prime time reporting system on a twice per month basis. Subcontractor's invoice(s) shall be payable by Prime within thirty (30) days after receipt of invoice, provided that the Customer has not withheld payment to Prime and provided further that Subcontractor is not in breach of this Agreement.

CONFIDENTIAL

The Subcontract shall also provide that the price that Prime shall pay Subcontractor for the above services falling within the Subcontractor's Allocation of Work shall be as follows:

Subject to Subcontractor providing the above staff during the Initial Term, the total amount payable to Subcontractor shall not exceed: \$4,028,000.00, provided that if the parties agree to add staff, they shall do so in a written amendment for a new not to exceed amount.

Payment terms will be specified in the Subcontract but payment will be based upon Subcontractor providing monthly invoices for hours of Services provided in the prior calendar month with supporting detail. Subcontractor's invoice(s) shall be payable by Prime within thirty (30) days after receipt of invoice, provided that the Customer has not withheld payment to the Prime. All travel related expenses must be pre-approved by Prime. No overtime shall be billed to and paid by Prime unless Subcontractor has received written approval from the direct Prime supervisor assigned to Subcontractor by Prime.

The Acceptance Criteria for all Services shall be defined as part of the Project Plan that will be mutually agreed upon in writing among the Prime and Subcontractor.

4. MINORITY OWNED BUSINESS COMMITMENT

Subcontractor understands that its services and resources play an important and vital role in helping Optum meet its small business commitment, which is required during the term of the Prime Contract. For the duration of Subcontract, Subcontractor shall maintain its Indiana Certification as a minority owned business and provide appropriate documentation of such to Prime upon request. Additionally, all resources provided by Subcontractor shall be viewed as key personnel, where such resources cannot be removed from the project unless there is prior Optum written approval, and only if Subcontractor has replacement personnel for Optum to approve in a timely manner such that the small business spend commitment is not reduced. Replacement personnel shall be at the same skill level and shall be at or below the rate stated in this Agreement for the applicable role. Should Subcontractor fail to perform or fill vacant roles in a timely manner, Optum may reduce its spend commitment to Subcontractor.

IN WITNESS WHEREOF, the Team Members hereto have caused this Appendix 1, Allocation of Work, inclusive of the pricing, to be executed by their authorized representatives as set forth below.

OPTUM GOVERNMENT SOLUTIONS, INC.

RCR TECHNOLOGY CORPORATION

By: 
Jeffrey Grosklags (Jul 17, 2024 13:03 CDT)


Robert Reed (Jul 15, 2024 13:07 EDT)

Name: Jeffrey Grosklags

Name: Robert Reed

Title: Chief Financial Officer

Title: President

Date: 07/17/2024

Date: 07/15/2024

APPENDIX 2

SUBCONTRACTOR PROPOSAL INFORMATION

Subcontractor shall provide assistance to the Prime in its Proposal as follows:

1. Provide resumes and photos for all personnel from Subcontractor for consideration by Prime and if Prime and Subcontractor agree to use such personnel, for inclusion in the Proposal
2. Provide pricing-related information in order for the Prime to submit a compliant Cost Proposal under the RFP.
3. As further specified by Prime, provide information regarding Subcontractor's experience working with Prime and Customer, and providing services substantially similar to those under the RFP.
4. Be named as a subcontractor with a company bio in the Proposal.
5. Provide Subcontractor company information, as required, including but not limited to, FEIN, corporate address, and licenses and permits held.
6. Maintain Indiana Certification as a minority owned business and provide documentation to Prime.
7. MBE Certification Letter provided by IDOA, MBE Letter of Commitment on RCR letterhead for the EDW (i.e., SSDW) scope of work, and any additional forms required for the Proposal.
8. If required, provide information about past contract performance, including termination of contracts for failure to perform and references.
9. Any additional information or assistance reasonably requested by the Prime or otherwise required by the RFP.

APPENDIX 3

FLOW DOWN PROVISIONS

Subcontractor shall provide the services described in Appendix 1 in accordance with, and subject to, compliance by Subcontractor with, those terms of the Contract that apply to the scope of such Services (the "Flow Down Provisions"), where such Flow Down Provisions shall be included in any Subcontract. Unless the context requires otherwise, references in the Contract to "Offeror," "Contractor," or "subcontractor" shall, for purposes of these Flow Down Provisions, be deemed to be references to "Subcontractor." References to "FSSA" or "Department" or "State" shall be deemed to be references to "Optum" or "Prime", unless the context requires that they instead be deemed to stay as references to FSSA, Department or the State, as set forth below. References to "contract" shall be deemed to be the Subcontract between Optum and Subcontractor.

For purposes of clarity, the Flow Down Provisions shall include the following provisions from the Contract that apply either to Subcontractor by virtue of the Subcontractor Allocation of Work or to Subcontractor in its capacity as a subcontractor.

RFP:

Conflict of Interest

Any person, firm or entity that assisted with and/or participated in the preparation of this solicitation document is prohibited from submitting a proposal to this specific solicitation. For the purposes of this solicitation, a "person" means a State officer, employee, special State appointee, or any individual or entity working with or advising the State or involved in the preparation of this solicitation proposal. This prohibition would also apply to an entity who hires, within a one-year period prior to the publication of this solicitation, a person that assisted with and/or participated in the preparation of this solicitation.

Sample Contract, Attachment B:

Access to Records.

The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

Assignment of Antitrust Claims.

As part of the consideration for the award of this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

Audits.

The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-11-1, et seq., and audit guidelines specified by the State.

The State considers the Contractor to be a "Contractor" under 2 C.F.R. 200.331 for purposes of this Contract. However, if it is determined that the Contractor is a "subrecipient" and if required by applicable

provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), Contractor shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 et seq.

Compliance with Laws.

- A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

- B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, et seq., IC § 4-2-7, et seq. and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.** If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

- C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

- D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

- E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall

not be subject to penalty or interest, except as permitted by IC § 5-17-5.

- F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC § 5-22-3-7:

(1) The Contractor and any principals of the Contractor certify that:

(A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:

- (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
- (ii) IC §24-5-12 [Telephone Solicitations]; or
- (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

(B) the Contractor will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

(2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

Confidentiality, Security and Privacy of Personal Information.

Definitions.

- 1) Personally Identifiable Information (“PII”) means personal information as collectively defined in IC-4-1-6-1 and IC 4-1-11-2 and under the National Institute of Standards and Technology (“NIST”) Special Publication 800-122, regardless of form (oral, written, electronic, or otherwise). As used here, PII includes PHI, SSA-data, and ACA-PII (as defined herein) as applicable, whether or not separately stated.
 - 2) Data Breach means the loss of control, compromise, unauthorized disclosure, unauthorized access or acquisition, or any similar occurrence where: a person other than an authorized user accesses or potentially accesses PII or other confidential information; or an authorized user accesses PII or other confidential information for other than an authorized purpose.
 - 3) Security Incident means an occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information the information system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.
 - 4) Confidential Information means information that is not publicly available under State or Federal laws, regulations, administrative code or rules, or as otherwise deemed confidential by the State.
 - 5) FedRAMP means the Federal Risk and Authorization Management Program.
 - 6) Terms used, but otherwise not defined in this Contract shall have the same meaning as those found in 45 CFR Parts 160, 162, and 164, and 45 CFR Subtitle A.
 - 7) “HIPAA” means the Health Insurance Portability and Accountability Act of 1996 (sections 1171 through 1179 of the Social Security Act), including any subsequent amendments to such Act.
 - 8) “HIPAA Rules” mean the rules adopted by and promulgated by the US Department of Health and Human services (“HHS”) under HIPAA and other relevant Federal laws currently in force or subsequently made, such as the Health Information Technology for Economic and Clinical Health Act (“HITECH”), as enumerated under 45 CFR Parts 160, 162, and 164, including without limitation any and all additional or modified regulations thereof. Subsets of the HIPAA Rules include:
 - a. “HIPAA Enforcement Rule” as defined in 45 CFR Part 160;
 - b. “HIPAA Security Rule” as defined in 45 CFR Part 164, Subparts A and C;
 - c. “HIPAA Breach Rule” as defined in 45 CFR Part 164, Subparts A and D; and
 - d. “HIPAA Privacy Rule” as defined in 45 CFR Part 164, Subparts A and E.
- B. If Contractor’s services under this Contract includes State authorized access to and use of PHI on the State’s behalf then Contractor is hereby deemed a Business Associate to the State and, as such, Contractor is hereby authorized by the State to create, receive, maintain, use, and/or transmit Protected Health Information (“PHI”) on the State’s behalf pursuant to and consistent with the services performed by Contractor under this Contract.
- C. Contractor is hereby authorized by the State to create, receive, maintain, use and/or transmit PII on the State’s behalf pursuant to and consistent with the services performed by Contractor under

this Contract. As used here, PII includes PHI, SSA-data, and ACA PII (as defined herein) as applicable, whether or not separately stated.

- D. Contractor understands that pursuant to and consistent with the services performed by Contractor under this Contract, Contractor may be permitted authorized access to data obtained by the State from the Social Security Administration (“SSA-data”). In this regard and to the extent that Contractor is permitted authorized access and use of SSA-data:
- 1) Contractor agrees that it will comply with the provisions of the Computer Matching and Privacy Protection Act Agreement (“CMPPA”) and the Information Exchange Agreement (“IEA”) executed between the Social Security Administration (“SSA”) and the State; these agreements are incorporated herein by reference and current copies of the CMPPA and IEA are attached to this Contract;
 - 2) Contractor further agrees that it will abide by all relevant Federal laws and restrictions on access, use, and disclosure of SSA-data, including the security requirements enumerated in the CMPPA and IEA;
 - 3) Contractor understands that its access, use, or disclosure of SSA-data in a manner or purpose not authorized by the CMPPA or IEA may subject Contractor, including Contractor’s employees, agents, and subcontractors, to civil and criminal sanctions pursuant to applicable Federal statutes; and,
 - 4) Contractor understands that the State, in compliance with the CMPPA, will undertake a review of Contractor’s compliance with Contractor’s obligations under the CMPPA, IEA, and this Contract no less than triennially; Contractor agrees to fully cooperate with the State in such reviews. Such reviews may be undertaken by the State in addition to or as part of other reviews of Contractor’s privacy and security policies, procedures, and practices undertaken by the State pursuant to this Contract.
- E. Contractor agrees that as a Business Associate to the State it is obligated to comply with the HIPAA Rules, as such Rules apply to Business Associates, throughout the term of this Contract and thereafter as may be required by Federal law and such compliance will be at Contractor’s sole expense. Further:
- 1) Contractor will not use or further disclose PHI or PII except as expressly permitted by this Contract or as required by law. It is further provided that nothing in this Contract shall be construed to permit Contractor use or disclose PHI in a manner that would violate the provisions of the HIPAA Privacy Rule as such Rule applies to the State with regard to the services performed by Contractor under this Contract or otherwise cause the State to be non-compliant with the HIPAA Privacy Rule.
 - 2) Contractor understands it must fully comply with the HIPAA Security Rule and will employ appropriate and compliant safeguards to reasonably prevent the use or disclosure of PHI and PII other than as permitted by this Contract or required by the HIPAA Privacy Rule or other applicable Federal or state law or regulation. Such safeguards will be designed, implemented, operated, and managed by Contractor at Contractor’s sole expense and following the Contractor’s best professional judgment regarding such safeguards. Upon the State’s reasonable request, Contractor will review such safeguards with the State.

- 3) Contractor understands that it is subject to the HIPAA Enforcement Rule under which Contractor may be subject to criminal and civil penalties for violations of and non-compliance with the HIPAA Rules.

F. Improper Disclosure, Security Incident, and Breach Notification.

- 1) As a Business Associate Contractor understands that it is subject to the HIPAA Breach Rule.
- 2) If a Security Incident occurs or if Contractor suspects that a Security Incident may have occurred with respect to PII in Contractor's safekeeping or as otherwise being legitimately used by Contractor in Contractor's performance of its services under this Contract:
 - a) Contractor shall notify the State of the Security Incident within twenty-four (24) hours of when Contractor discovered the Security Incident; such notification shall be made to the FSSA Privacy & Security Office in a manner reasonably prescribed by the FSSA Privacy & Security Officer and shall include as much detail as the Contractor reasonably may be able to acquire within the twenty-four (24) hour period.
 - b) For the purposes of such Security Incidents, "discovered" and "discovery" shall mean the first day on which such Security Incident is known to the Contractor or, by exercising reasonable diligence, would have been known to the Contractor. Regardless of whether the Contractor failed to exercise reasonable diligence, improperly delaying the notification of discovery beyond the twenty-four (24) hour requirement, the Contractor will notify the FSSA Privacy & Security Office within twenty-four (24) hours of gaining actual knowledge of a Security Incident.
 - c) In collaboration with the FSSA Privacy & Security Office, Contractor shall undertake all commercially reasonable efforts necessary to thoroughly investigate the Security Incident and to provide all results of such investigation to the FSSA Privacy & Security Office, including but not limited to Contractor personnel involved, source and cause of the Security Incident, specific information disclosed or possibly exposed, disclosure victims (those whose PII was disclosed or may have been disclosed or exposed to unauthorized access/use), disclosure recipients, supporting materials, actions taken to mitigate or stop the Security Incident, and similar details.
 - d) Contractor's investigation must be undertaken expeditiously and completed to the extent that a determination of whether a Breach has occurred can be reasonably made, including the identification of the victims or likely victims, within a reasonable timeframe as mutually agreed upon with the FSSA Privacy & Security Office, from the date of discovery of the Security Incident. Contractor shall provide details of its investigation to the FSSA Privacy & Security Office on an ongoing basis until the investigation is complete.
 - e) Contractor and the FSSA Privacy & Security Office will collaborate on the results of Contractor's investigation; the determination as to whether a Breach has occurred rests solely with the FSSA Privacy & Security Office.
 - f) If it is determined by the FSSA Privacy & Security Office that a Breach has occurred:

- I. Contractor agrees that it shall be responsible for, including all costs with respect to, fulfilling the State's and/or Contractor's obligations for notice to all of the known and suspected victims of the Breach. Such notice shall comply with the HIPAA Breach Rule notification requirements and/or applicable notification requirements under State law or regulation.
 - II. Contractor further agrees that such notification will be made under its name, unless otherwise specified by the FSSA Privacy & Security Office. Contractor will coordinate its Breach notification efforts with the FSSA Privacy & Security Office; the FSSA Privacy & Security Office will approve Contractor's Breach notification procedures and plans, including the format and content of the notice(s) prior to such notification being made.
 - III. Contractor accepts full responsibility for the Breach and any resulting losses or damages incurred by the State or any victim of the Breach.
 - IV. Contractor will undertake all commercially reasonable efforts necessary to mitigate any deleterious effects of the Breach for the known and suspected victims of the Breach.
 - V. The State, through the FSSA Privacy & Security Office, will make the appropriate notifications to HHS and/or the applicable Federal or State agencies with respect to the Breach, unless the Contractor is directed to do so by the FSSA Privacy & Security Office.
- g) Contractor will undertake commercially reasonable corrective actions to eliminate or minimize to the greatest degree possible the opportunity for an identified Security Incident to reoccur and provide the FSSA Privacy & Security Office with its plans, status updates, and written certification of completion regarding such corrective actions.
- 3) If Contractor observes or otherwise becomes aware of a Security Incident or suspected Security Incident outside of Contractor's scope of responsibilities under this Contract (for example, affecting PII not in Contractor's safekeeping), Contractor agrees to promptly report such Security Incidents to the FSSA Privacy & Security Office and cooperate with the FSSA Privacy & Security Office's investigation of the Security Incident.
- G. Subcontractors. Contractor agrees that in accordance with the HIPAA Privacy Rule, CMPPA, IEA, and 45 CFR §155.260 any subcontractors engaged by Contractor (in compliance with this Contract) that will create, receive, maintain, use or transmit State PII on Contractor's behalf will contractually agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such PII.
- H. Access by Individuals to their PHI/PII. Contractor acknowledges that in accordance with the HIPAA Privacy Rule and 470 IAC 1-3-1, *et seq.*, individuals for whom Contractor has direct possession of their PHI/PII on the State's behalf have the right to inspect and amend their PHI/PII, and have the right for an accounting of uses and disclosures of such PHI/PII, except as otherwise provided therein. Contractor shall provide such right of inspection, amendment, and accounting of disclosures to such individuals upon reasonable request by the State (or by such individuals if the State directly refers such individuals to Contractor). In situations in which

Contractor does not have direct possession of such PHI/PII, then the State shall be responsible for such inspection, amendment, and accounting of disclosures rights by individuals.

- I. Access to Records. Contractor shall make available to HHS and/or the State and/or other Federal agencies so authorized by law Contractor's internal practices, books, and records relating to the use and disclosure of PHI and PII provided to Contractor by the State or created, received, maintained, used, or transmitted by Contractor on the State's behalf. Contractor shall promptly inform the State by giving notice to the FSSA Privacy & Security Office of any request by HHS (or its designee), other State agencies, or other Federal agencies for such internal practices, books, and/or records and shall provide the State with copies of any materials or other information made available to such agencies.
- J. Return of Protected Health Information. Upon request by the State or upon termination of this Contract, Contractor will, at the State's sole option, either return or destroy all copies of any PHI or PII provided to Contractor by the State, including PHI or PII created, received, maintained, used or transmitted by Contractor on the State's behalf and Contractor shall warrant in writing that it has returned or destroyed such PHI and/or PII. Further, upon termination of this agreement Contractor will not retain any copies of any such PHI and PII and shall warrant same in writing.
- K. At the sole discretion of the State, the State may terminate this Contract for Contractor's material breach of this Section.
- L. Contractor agrees to participate in a disaster recovery plan, as appropriate to the Contractor's services, as determined by the State to be necessary to uphold integral business functions in the event of an unforeseen disaster.
- M. Drug and Alcohol Records. In the performance of the services under this Contract, Contractor may have access to confidential information regarding alcohol and drug abuse patient records. Contractor agrees that such information is confidential and protected information and promises and assures that any such information, regardless of form, disclosed to Contractor for the purposes of this Contract will not be disclosed or discussed with others without the prior written consent of the State. The Contractor and the State will comply with the applicable requirements of 42 CFR Part 2 and any other applicable Federal or state law or regulatory requirement concerning such information. The Contractor will report any unauthorized disclosures of such information in compliance with this Section.
- N. Confidentiality of State Information. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon, or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by Contractor for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this Section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses

for which it is liable under the terms of this Contract. The Contractor shall report any unauthorized disclosures of Social Security numbers to the FSSA Privacy & Security Office within one (1) business day of the date of discovery in accordance with this Section.

- O. Contractor will indemnify and hold the State harmless from any loss, damage, costs, expense, judgment, sanction or liability, including, but not limited to, attorneys' fees and costs, that the State incurs or is subject to, as a result of a breach of this Section by the Contractor or any subcontractor, agent or person under Contractor's control. In the event a claim is made against the State for any such claim, cause of action, liability, damage, cost or expense, State may, at its sole option: (i) tender the defense to Contractor, who shall provide qualified and competent counsel to represent the State interest at Contractor's expense; or (ii) undertake its own defense, utilizing such professionals as it deems reasonably necessary, holding Contractor responsible for all reasonable costs thereof. In any event, the State shall have the sole right to control and approve any settlement or other compromise of any claim brought against it that is covered by this Section.
- P. Contractor shall adhere to all relevant FSSA Security Policies for any related activities provided to FSSA under this Contract. Contractor is responsible for verifying that any subcontractors they engage will also comply with these policies. Any exceptions to these policies require written approval from the FSSA Privacy & Security Office.

Q. Access to FSSA and/or State Information Systems.

- 1) "FSSA and/or State Information Systems" means all computing hardware and related components, all computer software and related components, all network devices and related functions, and data owned by, licensed to, in the legal custody of, and/or operated by FSSA and/or the State.
- 2) If the Contractor, in the performance of Contractor's services under this Contract, is authorized and granted by the State with access to FSSA and/or State Information Systems:
 - a) Contractor agrees that it and all members of its workforce (as used here, "workforce" means employees, volunteers, interns, trainees, (sub)contractors, and other persons whose conduct is under the control of Contractor) performing such services will comply with all FSSA and State Privacy and Security Policies and Procedures.
 - b) All members of Contractor's workforce who are or will be granted access to FSSA and/or State Information Systems will undertake and certify completion of all FSSA and State mandated privacy and security training following a schedule reasonably required by FSSA and the State (e.g., upon new hire/assignment and annually thereafter).
 - c) All members of Contractor's workforce who are or will be granted access to FSSA and/or State Information systems will agree in writing or through electronic confirmation to the rules of behavior regarding access to and use of FSSA and/or State information systems; such rules of behavior include, but are not limited to the State Information Technology Resources User Policy ("ITR").
 - d) All members of Contractor's workforce who are or will be granted access to the FSSA Division of Family Resources ("DFR") eligibility and enrollment systems, a

subset of FSSA Information Systems as defined by DFR, will agree in writing or through electronic confirmation to the DFR Rules of Behavior.

- e) Such training and rules of behavior agreement(s) will be coordinated with Contractor by the FSSA Privacy and Security Office and the Indiana Office of Technology (“IOT”).
- f) Any members of Contractor’s workforce who fail to complete the required training as described above within the scheduled timeframes or who fail to agree to the rules of behavior will not be permitted to access FSSA and/or State information systems.
- g) Access to and usage of FSSA and/or State Information Systems is controlled through role-based access privileges and follows the principle of least privilege, meaning users are granted access to/usage of only the minimum amount of information and system functions necessary to perform their role or job assignment. As such, FSSA or its designee will provide Contractor with a list of roles it deems necessary for Contractor to perform the services; Contractor will identify each individual workforce member who requires access to/usage of FSSA and/or State Information Systems and the role to be assigned to each individual. Contractor will certify in writing that the role assigned to each individual workforce member is necessary and appropriate for the individual to perform their job assignment with respect to the performance of Contractor’s services under this Contract.
- h) FSSA will authorize and grant Contractor workforce member access privileges based on the requested and certified role in a timely manner; FSSA and IOT reserve the right to withdraw such authorization for any workforce member, with or without cause, at any time and without prior notice.
- i) Contractor agrees to notify the FSSA Privacy and Security Office or its designee within twenty-four (24) hours of any workforce member terminations or changes in workforce member assignment that would affect their need for access or role.
- j) Contractor agrees that it is solely responsible for the actions, including errors and omissions, intentional misconduct, or malfeasance of its workforce members with respect to their access to and usage of FSSA and/or State Information Systems.
- k) The FSSA Privacy and Security Office (or its designee) and Contractor will collaborate on the methods and means to identify workforce members requiring access, certification, changes, and other communications under this subsection.

R. 45 CFR §155.260 Compliance.

- 1) FSSA participates in a PII data exchange with the Centers for Medicare and Medicaid services (“CMS”) mandated under the Affordable Care Act (“ACA”, Public Law 111-148). The receipt of PII data from CMS through this data exchange (“ACA PII”) is in support of the determination of eligibility for healthcare coverage for individuals, which is a primary function of DFR. DFR is designated as the Administering Entity on behalf of FSSA under a computer matching agreement with CMS and, per the terms of that agreement, is obligated to comply with the provisions of 45 CFR §155.260 and §155.280 regarding the privacy and

security of ACA PII and that such compliance will be achieved through the application of the privacy and security standards and obligations established in the Minimum Acceptable Risk Standards for Exchanges (“MARS-E”) promulgated by CMS, including any subsequent versions issued by CMS.

- 2) 45 CFR §155.260(b)(2)(v) requires DFR on behalf of FSSA to bind all downstream entities with which ACA PII is shared to same privacy and security standards and obligations that DFR is obligated to comply with, subject to the provisions under 45 CFR §155.260(b)(3) and in compliance with the monitoring provisions under 45 CFR §155.280.
- 3) In this regard (pursuant to the immediately preceding):
 - i. Contractor understands that in the performance of its services under this Contract Contractor will be given access to and usage of ACA PII to the extent necessary to perform such services; such access and usage of ACA PII is hereby authorized by the State.
 - ii. Contractor agrees that such ACA PII is subject to the same provisions of this Section as apply to PII and PHI, including but not limited to subsection F Improper Disclosure, Security Incident, and Breach Notification.
 - iii. Contractor further agrees that it will employ privacy and security standards over such ACA PII that are consistent with and being at least as protective as the privacy and security standards employed by DFR as described in paragraph 1) above taking into consideration: (i) the environment in which the Contractor is operating; (ii) whether specific standards are relevant and applicable to the Contractor’s duties and activities in the performance of the services; and, (iii) existing legal requirements to which Contractor is bound in relation to its administrative, technical, and operational controls and practices, including but not limited to, its existing data handling and information technology processes and protocols.
 - iv. Contractor additionally agrees that the privacy and security standards it employs over ACA PII will be consistent with the principles established in 45 CFR §155.260(a)(3) and that Contractor will bind any subcontractors with authorized access to ACA PII to the same or at least as protective as the privacy and security standards Contractor employs over ACA PII.
 - v. Contractor agrees that it will comply with the applicable provisions under 45 CFR §155.260 as a non-exchange entity; specifically, Contractor will comply with the MARS-E 2.2 privacy and security control requirements and with any subsequent versions of those control requirements promulgated by CMS with Contractor’s compliance with those subsequent versions to be achieved by the compliance date established by CMS in such subsequent versions.

Debarment and Suspension.

- A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department,

agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

- B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

Drug-Free Workplace Certification.

As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them 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 violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

Employment Eligibility Verification.

As required by IC § 22-5-1.7, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:

- A. The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.
- B. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.
- C. The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

Force Majeure.

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

Indemnification.

The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State will not provide indemnification to the Contractor.

Independent Contractor; Workers' Compensation Insurance.

The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

Information Technology Enterprise Architecture Requirements.

If this Contract involves information technology-related products or services, the Contractor agrees that all such products or services are compatible with any of the technology standards found at <https://www.in.gov/iot/2394.htm> that are applicable, including the assistive technology standard. The State may terminate this Contract for default if the terms of this paragraph are breached.

The Contractor specifically agrees that all hardware, software and services provided to or purchased by FSSA will comply with the privacy and security standards enumerated in the current version of the Minimum Acceptable Risk Standards for Exchanges (MARS-E) promulgated by the US Department of Health and Human Services Centers for Medicare & Medicaid Services (CMS). CMS will publish future versions of MARS-E and the Contractor agrees, at its sole expense, to modify all hardware, software, and services provided under this agreement to be compliant with such future versions within the timeframe mandated by CMS.

Insurance.

- A. The Contractor and its subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:
 - 1) Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability

arising directly or indirectly under or in connection with this Contract.

- 2) Automobile liability for owned, non-owned and hired autos with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.
- 3) Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract.
- 4) Fiduciary liability if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others with limits no less than \$700,000 per cause of action and \$5,000,000 in the aggregate.
- 5) Valuable Papers coverage, if applicable, with an Inland Marine Policy Insurance with limits sufficient to pay for the re-creation and reconstruction of such records.
- 6) Surety or Fidelity Bond(s) if required by statute or by the agency.
- 7) Cyber Liability addressing risks associated with electronic transmissions, the internet, networks and informational assets, and having limits of no less than \$700,000 per occurrence and \$5,000,000 in the aggregate.

The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage meeting all statutory requirements of IC § 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana. All insurance documents are to be sent electronically to insurancedocuments.fssa@fssa.in.gov.

B. The Contractor's insurance coverage must meet the following additional requirements:

- 1) The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
- 2) Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
- 3) The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in

this Contract.

- 4) The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
- 5) The Contractor waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana.

Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

Licensing Standards.

The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

Nondiscrimination.

Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). The Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

The State is a recipient of federal funds, and therefore, where applicable, the Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

Ownership of Documents and Materials.

All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State. If ownership interest in the Materials cannot be assigned to the State, the Contractor grants the State a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials.

Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by the State and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the State full, immediate, and unrestricted access to the Materials and to Contractor's work product during the term of this Contract.

Public Record.

The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and will post this Contract on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

Waiver of Rights.

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

Work Standards.

The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

Federally Required Clauses.

The Contractor must comply with the following provisions:

A. Executive Order 11246, entitled "Equal Employment Opportunity," as supplemented by the Department of Labor Regulations (41 CFR Part 60): The Executive Order prohibits, among other things, federal contractors and federally assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

Contractor will compile data, maintain records, and submit reports as required to permit effective enforcement of nondiscrimination laws, regulations, policies, instructions, and guidelines. This agreement permits authorized USDA personnel to review such records, books, and accounts as needed during hours of program operation to ascertain compliance.

B. The Clean Air Act, Section 306:

a. No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.

b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).

c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

C. The Clean Water Act:

a. No Federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall

continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:

- i. requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and
- ii. setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

e. The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

f. (1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section. (2) In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

D. The Anti-Lobbying Act: This Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the applicant certifies that:

a. 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 making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;

b. 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 federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

E. Americans with Disabilities Act: This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.

F. Drug Free Workplace Statement: The Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:

- a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace.
- b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
- c. Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.
- d. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the Indiana Family and Social Services Administration that abuse of this drug will also not be tolerated in the workplace.
- e. Contractors of federal agencies are required to certify that they will provide drugfree workplaces for their employees.

G. Debarment, suspension, and other responsibility matters: As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110.

- a. The applicant certifies that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - ii. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

iv. Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default.

b. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

H. The federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes, the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant or any rights of copyright to which a contractor purchases ownership

I. Civil Rights Compliance and Enforcement Assurance

a. The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

Additional Terms and Conditions, Attachments B1, B2, B3

Data Ownership: The State owns all rights, title, and interest in the Data. The contractor shall not access State user accounts or Data, except: (1) in the normal course of data center operations; (2) in response to Service or technical issues; (3) as required by the express terms of this contract, applicable Statement of Work, or applicable Service Level Agreement; or (4) at the State's written request.

Contractor shall not collect, access, or use Data except as strictly necessary to provide Service to the State. No information regarding State's use of the Service may be disclosed, provided, rented, or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. This obligation shall survive and extend beyond the term of this contract.

Data Protection: Protection of personal privacy and Data shall be an integral part of the business activities of the contractor to ensure there is no inappropriate or unauthorized use of Data at any time. To this end, the contractor shall safeguard the confidentiality, integrity, and availability of Data and shall comply with the following conditions:

- a. The contractor shall implement and maintain appropriate administrative, technical, and organizational security measures to safeguard against unauthorized access, disclosure, or theft of Data. Contractor shall implement and maintain heightened security measures with respect to Encrypted Data. Such security measures shall be in accordance with Indiana Office of Technology practice and recognized industry practice, including but not limited to the following:
 1. Information Security Framework; and
 2. Indiana Office of Technology Cloud Product and Service Agreements, Standard ID: IOT-CS-SEC-010.
- b. All Encrypted Data shall be subject to controlled access. Any stipulation of responsibilities shall be included in the Statement of Work and will identify specific roles and responsibilities.
- c. The contractor shall encrypt all Data at rest and in transit. The State may, in the Statement of Work, identify Data it deems as that which may be publicly disclosed that is not subject to encryption. Data so designated may be maintained without encryption at rest and in transit. The level of protection and encryption for all Encrypted Data shall meet or exceed that required in the Information Security Framework.
- d. At no time shall any Data or processes — that either belong to or are intended for the use of State — be copied, disclosed, or retained by the contractor or any party related to the contractor for subsequent use in any transaction that does not include the State.
- e. The contractor shall not use any information collected in connection with the Services for any purpose other than fulfilling its obligations under the contract.

Data Location: Storage of Data at rest shall be located solely in data centers in the United States and the contractor shall provide its Services to the State and its end users solely from locations in the United States. The contractor shall not store Data on portable devices, including personal laptop and desktop computers. The contractor shall access Data remotely only as required to provide technical support. The contractor shall provide technical user support on a 24/7 basis unless specified otherwise in the Service Level Agreement.

Notice Regarding Security Incident or Data Breach:

- a. Incident Response: contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries, and seeking external expertise as mutually agreed upon, defined by law, or contained in the contract. Discussing Security Incidents and Data Breaches with the State must be handled on an urgent

basis, as part of contractor's communication and mitigation processes as mutually agreed upon in the Service Level Agreement, contained in the contract, and in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.

b. Security Incident Reporting Requirements: The contractor shall report a Security Incident to the State-identified contact(s) as soon as possible by telephone and email, but in no case later than two (2) days after the Security Incident occurs. Notice requirements may be clarified in the Service Level Agreement and shall be construed in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.

c. Data Breach Reporting Requirements: If a Data Breach occurs, the contractor shall do the following in accordance with IC 4-1-11 and IC 24-4.9 as they may apply: (1) as soon as possible notify the State-identified contact(s) by telephone and email, but in no case later than two (2) days after the Data Breach occurs unless a shorter notice period is required by applicable law; and (2) take commercially-reasonable measures to address the Data Breach in a timely manner. Notice requirements may be clarified in the Service Level Agreement. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

Responsibilities Regarding Data Breach: This section applies when a Data Breach occurs with respect to Encrypted Data within the possession or control of the contractor.

a. The contractor shall: (1) cooperate with the State as reasonably requested by the State to investigate and resolve the Data Breach; (2) promptly implement necessary remedial measures, if necessary; and (3) document and provide to the State responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the Services, if necessary.

b. Unless stipulated otherwise in the Statement of Work, if a Data Breach is a result of the contractor's breach of its contractual obligation to encrypt Data or otherwise prevent its release as reasonably determined by the State, the contractor shall bear the costs associated with: (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators, or others required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (3) a credit monitoring service required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (4) a website or a toll-free number and call center for affected individuals required by federal and/or state law — all of which shall not amount to less than the average per-record per-person cost calculated for data breaches in the United States (in, for example, the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the Data Breach); and (5) complete all corrective actions as reasonably determined by contractor based on root cause and on advice received from the Indiana Office of Technology. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

Notification of Legal Requests: If the contractor is requested or required by deposition or written questions, interrogatories, requests for production of documents, subpoena, investigative demand or similar process to disclose any Data, the contractor will provide prompt written notice to the State and will cooperate with the State's efforts to obtain an appropriate protective order or other reasonable assurance that such Data will be accorded confidential treatment that the State may deem necessary.

Termination and Suspension of Service:

a. In the event of a termination of the contract, the contractor shall implement an orderly return of Data in a mutually agreeable and readable format. The contractor shall provide to the State any information that may be required to determine relationships between data rows or columns. It shall do so at a time agreed to by the parties or shall allow the State to extract its Data. Upon confirmation from the State, the contractor shall securely dispose of the Data.

b. During any period of Service suspension, the contractor shall not take any action that results in the erasure of Data or otherwise dispose of any of the Data.

c. In the event of termination of any Services or contract in its entirety, the contractor shall not take any action that results in the erasure of Data until such time as the State provides notice to contractor of confirmation of successful transmission of all Data to the State or to the State's chosen vendor.

During this period, the contractor shall make reasonable efforts to facilitate the successful transmission of Data. The contractor shall be reimbursed for all phase-out costs (i.e., costs incurred within the agreed period after contract expiration or termination that result from the transfer of Data or other information to the State). A reimbursement rate shall be agreed upon by the parties during contract negotiation and shall be memorialized in the Statement of Work. After such period, the contractor shall have no obligation to maintain or provide any Data and shall thereafter, unless legally prohibited, delete all Data in its systems or otherwise in its possession or under its control. The State shall be entitled to any post-termination assistance generally made available with respect to the Services, unless a unique data retrieval arrangement has been established as part of a Service Level Agreement.

d. Upon termination of the Services or the contract in its entirety, contractor shall, within 30 days of receipt of the State's notice given in 7(c) above, securely dispose of all Data in all of its forms, including but not limited to, CD/DVD, backup tape, and paper. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the State upon completion.

Background Checks: The contractor shall conduct a Federal Bureau of Investigation Identity History Summary Check for each employee involved in provision of Services: (1) upon commencement of the contract; (2) prior to hiring a new employee; and (3) for any employee upon the request of the State. The contractor shall not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to one (1) year is an authorized penalty. The contractor shall promote and maintain an awareness of the importance of securing the State's information among the contractor's employees, subcontractors, and agents. If any individual providing Services under the contract is not acceptable to the State, in its sole opinion, as a result of the background or criminal history investigation, the State, in its sole option shall have the right to either: (1) request immediate replacement of the individual; or (2) immediately terminate the contract, related Statement of Work, and related Service Level Agreement.

Contract Audit: The contractor shall allow the State to audit conformance to the contract terms. The State may perform this audit or contract with a third party at its discretion and at the State's expense.

Non-disclosure and Separation of Duties: The contractor shall enforce role-based access control, separation of job duties, require commercially-reasonable nondisclosure agreements, and limit staff knowledge of Data to that which is absolutely necessary to perform job duties. The contractor shall annually provide to the State a list of individuals that have access to the Data and/or the ability to service the systems that maintain the Data.

Import and Export of Data: The State shall have the ability to import or export Data in piecemeal or in entirety at its discretion, with reasonable assistance provided by the contractor, at any time during the term of contract. This includes the ability for the State to import or export Data to/from other parties at the State's sole discretion. Contractor shall specify in the Statement of Work if the State is required to provide its' own tools for this purpose, including the optional purchase of contractor's tools if contractor's applications are not able to provide this functionality directly.

Subcontractor Disclosure: Contractor shall identify all of its strategic business partners related to Services, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the contractor, and who may be involved in any application development and/or operations. The contractor shall be responsible for the acts and omissions of its subcontractors, strategic business partners, or other entities or individuals who provide or are involved in the provision of Services.

Compliance with Accessibility Standards: The contractor shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973, or any other state laws or administrative regulations identified by the State.