



# Commonwealth of Kentucky

## CONTRACT MODIFICATION

**Document Number:** PON2 729 2400002022 **Version:** 3

**Record Date:**

**Document Description:** Quick Response Team (QRT) C5106

**Cited Authority:** FAP111-44-00  
Memorandum of Agreement

**Reason for Modification:** MODIFICATION #2  
April 1, 2025

Previous Contract Amount: \$100,000  
Increase Amount: \$200,000  
Total Contract Amount: \$300,000

This modification is to add Kentucky Overdose Response Effort (KORE), State Opioid Response (SOR) IV grant funds to continue Quick Response Team (QRT). The contract is also being extended through 6/30/2026.

The following Commodity Line has been added:

CL3: \$200,000 Add KORE SOR IV grant funding for Quick Response Team (QRT).

The Scope of Work has been revised as detailed below:

Paragraph one, extended the contract end date to 06/30/2026.

1.00 Purpose and Background  
Paragraph five, updated grant number.

Section 1.04 Organization  
Removed Business Associate Agreement from the list.

2.00 Services Required  
Paragraph one, added in its entirety.

2.02 Reporting Requirements  
Item two, second sentence has been revised.

Section 3 Pricing/Invoicing  
Language has been revised and contract amount updated.

Section 4 and 5 boilerplate has been revised.

### Issuer Contact:

**Name:** Monica Bell Spalding  
**Phone:**  
**E-mail:** monica.bellspalding@ky.gov

### Vendor Name:

LEXINGTON FAYETTE URBAN CO  
GOVERNMENT

200 EAST MAIN STREET

### Vendor No.

KY0032969

### Vendor Contact

**Name:** Chad Hancock

**Phone:** 8592583313

LEXINGTON

KY 40507

E-mail: chancock@lexingtonky.gov

Effective From: 2024-07-01

Effective To: 2026-06-30

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
1		0.00000		KORE SOR III QRT	\$0.000000	\$50,000.00	\$50,000.00

Extended Description:

Lexington Fayette Urban County Government shall maintain a Quick Response Team (QRT) comprised of a collaborative, interdisciplinary partnership between any of the following community partners: treatment providers, first responders, health department staff, local community-based organizations including faith-based groups and peer support professionals with lived experience.

100% Federal Funding  
CFDA# 93.788

Contractor Contact  
Name: Linda Gorton  
Phone: 859-258-3100  
Email: mayor@lexingtonky.gov

Agency Contact  
Name: Leslie Kennedy  
Phone. 502-782-4025  
Email: Leslie.Kennedy@ky.gov

Shipping Information:	Billing Information:
	CHFS DBHDID - Commissioner 275 E Main Street 4WF  Frankfort KY 42240

Effective From: 2024-07-01

Effective To: 2026-06-30

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
2		0.00000		KORE SOR III NCE QRT (TNBR)	\$0.000000	\$50,000.00	\$50,000.00

Extended Description:

100% Federal Funding  
CFDA# 93.788

Shipping Information:	Billing Information:
	CHFS DBHDID - Commissioner 275 E Main Street 4WF  Frankfort KY 42240

Effective From: 2024-07-01

Effective To: 2026-06-30

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
3		0.00000		KORE SOR IV QRT (TBNU)	\$0.000000	\$200,000.00	\$200,000.00

Extended Description:

100% Federal Funding  
CFDA# 93.788

Shipping Information:	Billing Information:
	CHFS DBHDID - Commissioner 275 E Main Street 4WF  FrankfortKY42240

TOTAL CONTRACT AMOUNT	\$300,000.00
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## MODIFICATION HISTORY

### MODIFICATION #2

April 1, 2025

Previous Contract Amount: \$100,000

Increase Amount: \$200,000

Total Contract Amount: \$300,000

This modification is to add Kentucky Overdose Response Effort (KORE), State Opioid Response (SOR) IV grant funds to continue Quick Response Team (QRT). The contract is also being extended through 6/30/2026.

The following Commodity Line has been added:

CL3: \$200,000 – Add KORE SOR IV grant funding for Quick Response Team (QRT).

The Scope of Work has been revised as detailed below:

Paragraph one, extended the contract end date to “06/30/2026.”

1.00 Purpose and Background

Paragraph five, updated grant number to “1H79TI087770-01.”

Section 1.04 Organization

Removed “Business Associate Agreement” from the list.

2.00 Services Required

Paragraph one, added in its entirety.

2.02 Reporting Requirements

Item two, second sentence has been revised.

Section 3 – Pricing/Invoicing

Paragraph two, updated contract amount to “\$300,000.”

Paragraph six, item three, has been revised.

Paragraph six, item four, added in its entirety and this section renumbered.

Paragraph six, item nine, added in its entirety.

Section 4 and 5 boilerplate has been revised.

### MODIFICATION #1

October 29, 2024

Previous Contract Amount: \$50,000

Increase Amount: \$50,000

Total Contract Amount: \$100,000

This modification is to add Kentucky Overdose Response Effort (KORE), State Opioid Response (SOR) III, and No Cost Extension (NCE) grant funds to continue Quick Response Team (QRT). The contract is also being extended through 6/30/2025.

The following Commodity Lines have been revised and added:

CL1: Commodity Line Description has been updated to include the subfunction (TNBR).

CL2: \$50,000 - Add under KORE SOR III NCE grant funding for Quick Response Team (QRT).

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The Scope of Work has been revised as detailed below:

Paragraph one, deleted the words “is entered into, by and”  
Paragraph one, replaced the date “12/31/2024” with 6/30/2025”.

#### 1.00 – Purpose and Background

Paragraph one, replaced the word “Opioid” with “Overdose”.  
Paragraph one, the last sentence, replaced the word “four” with “five”.  
Paragraph one, the last sentence, 1) deleted the word “opioid”.  
Paragraph one, the last sentence, 2) replaced the word “parenting” with “postpartum”.  
Paragraph one, the last sentence, 3) replaced the word “Justice” with “Criminal-legal”.  
Paragraph one, the last sentence, 5) added “Transition age-youth”.  
Paragraph two, replaced the word “is” with the word “are”.  
Paragraphs 3, 4, and 5 have been added in its entirety.

#### 2.00 Services Required

Item number 2, letter c., deleted the word “Offer”, added the word “distribution”, and replaced the word “patients” with the word “individuals”.  
Item number 3, letter c., removed “as well as” and replaced the words “the completion of” with the words “completing the”.

#### 2.01 Deliverables

Item number 9, added the word “the” before steering committee.  
Item number 10, deleted in its entirety.

#### 2.02 Reporting Requirements

Item number 2, first sentence, replaced the word “SOR” with “KORE”  
Item number 2, second sentence, revised and added in its entirety.  
Item number 4, first sentence, replaced the word “monthly” with “quarterly”.  
Item number 4, second sentence, revised and added in its entirety.

#### Section 3 – Pricing/Invoicing

Paragraph two, last sentence updated contract amount to \$100,000.  
Paragraph six, added number 3. Commodity Line and subfunction from which to pay. This section was renumbered.  
Paragraph six, added number 9. Expenditures for each budget category during the invoicing period.

#### Section 4 – CHFS General Terms and Conditions

Section 4.01.05 Indemnification, has been revised and added.  
Section 4.02.03.01 Responsibility for Subcontractor Contract Requirements, has been revised and added.

FAC terms and conditions have been updated.

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## Memorandum of Agreement Terms and Conditions

### Regular (Government/Quasi-Governmental) (PON2)

This Memorandum of Agreement (MOA) ~~is entered into, by and~~ between the Commonwealth of Kentucky, Cabinet for Health and Family Services Department for Behavioral Health, Developmental and Intellectual Disabilities (“the Commonwealth”) and Lexington Fayette Urban County Government (“The Contractor”) to establish an agreement to maintain a Quick Response Team. The initial MOA is effective from 07/01/2024 through ~~12/31/2024~~ **06/30/2025**.

## SECTION 1 – ADMINISTRATIVE OVERVIEW

### 1.00 Purpose and Background

The Kentucky ~~Opioid-Overdose~~ Response Effort (KORE) seeks to expand and sustain a comprehensive, equitable recovery-oriented system of care to address opioid use disorder (OUD) and stimulant use disorder (StimUD) for all individuals throughout Kentucky. To achieve this aim, KORE and its partners commit to implementing a trauma- and resilience-informed care approach within a racial equity framework to reduce overdose deaths and increase equitable access to high quality, evidence-based prevention, treatment, and recovery support services that are culturally responsive. Informed by data on populations most in need, the KORE projects will focus on ~~four~~ **five** primary populations with OUD and/or StimUD: 1) ~~Opioid-overdose~~ **Overdose** survivors, 2) Pregnant and ~~parenting~~ **postpartum**, 3) ~~Justice- Criminal-legal~~ **involved**, and 4) Black, Indigenous, and Persons of Color, **and 5) transition-age youth**.

Lexington Fayette Urban County Government shall maintain a Quick Response Team (QRT). A QRT provides a way for public safety officials to work with behavioral health providers to serve individuals who have experienced or ~~is~~ **are** at risk of experiencing an opioid related overdose or complication. The goal of the QRT is to reduce the incidence of overdoses and overdose fatalities by increasing the number of people who receive OUD treatment, harm reduction and recovery support services.

**KORE intends to be the payor of last resort. It is the responsibility of the Contractor to ensure that all individuals receiving KORE funded services have applied for any other funding stream for which they may be eligible.**

**Contractors and their sub-recipients must disclose in a timely manner, in writing, to the Department for Behavioral Health, Developmental and Intellectual Disabilities, all information related to violations or suspected violations, of Federal criminal law involving fraud, bribery or gratuity violations potentially affecting the SAMHSA award.**

**LFUCG will notify KORE prior to media communications and acknowledge federal funding in all communications activities using the following tagline. “This project is supported by the Kentucky Overdose Response Effort (KORE) through a Substance Abuse and Mental Health Services Administration (SAMHSA) Grant 6H79TI05782-02M002 1H79TI08770-01.**

### 1.01 Issuing Office

The Commonwealth of Kentucky, Cabinet for Health and Family Services, Division of Procurement and Grant Oversight, is issuing this Contract on the behalf of the Department for Behavioral Health, Developmental and Intellectual Disabilities Division of Substance Use Disorder. The Cabinet’s designee is the only office authorized to change, modify, amend, alter, or clarify the specifications, terms and conditions of this Contract.

### 1.02 Communications

The Issuer identified on page 1 is the point of contact during the procurement process and for communications concerning contract issues during the life of the contract. After the Award of the Contract, all contractual communications are to be sent to the Agency Contact Person listed in the Extended Description of Commodity Line 1. Notices by the Cabinet shall be sent to the Contractor representative listed in the Extended Description of Commodity Line 1. Unless otherwise stated, all notices, consents, and other contractual communications shall be in writing.

### 1.03 Terminology

For this Contract, the following terms may be used interchangeably:

- Vendor: Contractor, Offeror, The Second Party, Proposer
- Issuer of Contract: Buyer, Purchaser, Contract Officer
- Commonwealth of Kentucky: Commonwealth, State
- Cabinet for Health and Family Services: the Cabinet, the Department, the Agency, CHFS

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- Fiscal Year is the Commonwealth fiscal year: July 1 through June 30

- Biennium is the Commonwealth biennium: July 1 of each even numbered year through June 30 of the next even numbered year.

#### 1.04 Organization

This Contract is organized in the following manner:

Section 1-Administrative Overview

Section 2-Scope of Services

Section 3-Pricing/Invoicing

Section 4-CHFS General Terms and Conditions

Section 5-Federal Requirements

Finance Terms and Conditions of the Contract

~~Business Associate Agreement~~

## SECTION 2 – SCOPE OF SERVICES

### 2.00 Services Required

The time following a nonfatal overdose is an essential intervention opportunity to identify individuals at high risk for a subsequent overdose and provide services to reduce their future overdose risk. The goal of a Quick Response Team (QRT) is to mitigate the risk and severity of drug-related overdoses by providing assertive outreach and engagement to overdose survivors and their social networks within 24-72 hours of the incident. QRTs reduce the risk of overdose by providing (1) harm reduction supplies and connecting individuals to local harm reduction services, (2) education on overdose prevention, safer drug use practices, and treatment and recovery support options, (3) referrals to infectious disease, mental health and substance use treatment, including MOUD, and (4) case management for recovery support services, including housing, food, healthcare, and transportation.

Lexington Fayette Urban County Government shall:

1. Maintain a Quick Response Team (QRT) comprised of a collaborative, interdisciplinary partnership between any of the following community partners: treatment providers, first responders, health department staff, local community-based organizations including faith-based groups and peer support professionals with lived experience. QRT shall have the capacity to provide the following:
  - a. Engage with individuals who have experienced an overdose or complications related to opioid and/or stimulant use.
  - b. Provide assertive linkages to harm reduction, evidence-based treatment interventions, and recovery services, which support multiple pathways to recovery including the use of Food and Drug Administration (FDA) approved medications for opioid use disorder (MOUD, e.g., Methadone, buprenorphine, naltrexone).
  - c. Provide assertive engagement and relationship building to educate individuals, family members and the larger community about addiction, available evidence-based resources for prevention, harm-reduction, treatment and recovery, and the ways in which the QRT can assist individuals and families.
  - d. Written standard operating policies and procedures that includes how information will be obtained; how HIPPA laws and procedures are maintained; how visits will take place and with whom; the organization's professional behavior policy; process for data collection, safety, and risk management protocols; and how and when naloxone is distributed.
2. Maintain and facilitate an ongoing training plan for the QRT focused on the following key competencies:
  - a. Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulations and practices.
  - b. Post overdose training.
  - c. ~~Offer n~~Naloxone distribution to all individuals ~~patients~~ who present with opioid overdose or other sequelae of OUD along with overdose education and training on naloxone administration.
  - d. Casey's Law education.
  - e. Motivational Interviewing.
  - f. Trauma-informed care.

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3. Review the following documents at least annually and update as needed:
  - a. Written procedures for how the QRT will operate, what the responsibilities of each partner will be, and set hours of availability to best meet the needs of the population outside of weekly 9 am – 5 pm hours of operation.
  - b. A uniform resource packet, script, and plan for how each visit will be structured and communicate that clearly to all participating partners.
  - c. A written action plan for individuals wanting immediate treatment from the QRT. The action plan shall consist of what steps to take first, transportation guidelines and procedures, ~~as well as~~ referrals to treatment or other resources. The action plan shall also consist of procedures for ~~the completion-completing of the~~ intake and assessment forms.
  - d. Written standard operating policies and procedures that includes how information will be obtained; how HIPAA laws and procedures are maintained; how visits will take place and with whom; the organization's professional behavior policy; process for data collection, safety, and risk management protocols; and how and when naloxone is distributed.
4. Maintain a steering committee, advisory board, Board of Directors, or some other project governance mechanism with at least one-third of the voting membership comprised of individuals in recovery and/or family members of individuals in recovery. Key community partners can include law enforcement, emergency responders, jails, judges, specialty court staff, political officials and city governments, health departments, community and faith-based organizations and substance use treatment and recovery systems. This group must be committed to continuous improvement and actively involved in designing, implementing, and overseeing a plan of timely response, outreach and education focused on individuals who have experienced an opioid and/or stimulant related overdose.

## 2.01 Deliverables

Lexington Fayette Urban County Government shall:

1. Diversify partnerships with organizations serving as referral agencies to the QRT:
  - a. Identifying and meet with, at minimum, three (3) potential referral partners.
  - b. Establish formal referral relationships with, at minimum, one (1) new partner.
  - c. Engage at least monthly with, a minimum, of one (1) program that serves persons at-risk of experiencing overdose, such as jails and prisons, emergency departments, syringe service programs.
2. Provide in-person, rapid response within 24 -72 hours to individuals and families experiencing an opioid or stimulant overdose or related complication:
  - a. Engage in Harm Reduction strategies as part of the QRT services including fentanyl test strips (FTS) and naloxone distribution during rapid response visits and/or follow-up visits.
3. Sustain a robust resource network to minimize gaps/barriers to service engagement and retention:
  - a. Maintain a referral resource packet, including intake processes and supportive services.
  - b. Identify, at minimum, one (1) new resource and add to referral list.
4. Engage in ongoing follow-up with persons served to monitor and support individual's access to and engagement with services and supports.
  - a. Maintain a process to track referrals that allows all members of the QRT to engage in follow-up with clients.
  - b. Conduct follow-up engagement with, at minimum, twenty percent (20%) of clients within thirty (30) days after initial contact to ensure connections were made and provide additional linkages if necessary.
5. Increase assertive engagement to underserved and minoritized populations at high risk for overdose by doing the following:
  - a. Canvas and offer QRT services in at least one (1) area identified by individuals living in a Black, Indigenous and People of Color (BIPOC) or other marginalized community.
  - b. Initiate and maintain an informal partnership with regular communication and relationship building with the Black, Indigenous and People of Color (BIPOC) community.
  - c. Consult and take direction from individuals living in underserved BIPOC communities to provide perspective and awareness of racial/ethnic, social, emotional, and cognitive needs of the population.



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- d. Increase trauma-informed and culturally responsive marketing strategies to include in-person and virtual community engagement, leveraging of social media platforms and partnership collaboration alongside traditional forms of advertising.
6. Ensure QRT partners are trained in overdose prevention and response, and cross sector collaboration:
  - a. Conduct one (1) training with partner agencies in overdose prevention and quick response strategies.
  - b. Ensure partners are aware of naloxone leave behind and other available harm reduction programs.
7. Maintain the current performance data monitoring plan that includes Government Performance and Results Act (GPRA) collections (directly or through referral agencies) and continuous quality improvement:
  - a. Maintain a data-tracking/quality improvement and communication system for the QRT that is secure, HIPAA compliant and includes a regular disaggregation of data to ensure services are being provided to communities of color, individuals who may be unhoused and others who are at an increased risk of overdose and health disparities.
  - b. Participate in KORE learning and resource sharing community through digital and in-person meetings.
8. Leverage diverse funding streams and resources to sustain and maximize impact of QRT:
  - a. Maintain a robust sustainability plan that includes, at minimum, two (2) specific strategies for long-term sustainability of the program.
9. Hold regular meetings with the steering committee, advisory board, Board of Directors, or other project governance to ensure ongoing development and improvement of QRT services.

~~10. Notify KORE prior to media communications and acknowledge federal funding in all communications activities using the following tag line: "This project is supported by the Kentucky Opioid Response Effort (KORE) via Substance Abuse and Mental Health Services Administration (SAMHSA) Grant H79TI085782."~~

## 2.02 Reporting Requirements

Lexington Fayette Urban County Government shall:

1. Complete an intake Government Performance and Results Act (GPRA) with 100% of consenting individuals with a history or OUD and/or stimulant use disorder and a six (6) month follow-up interview with at least 80% of individuals who complete an intake. Data shall be submitted to the Web Infrastructure for Treatment Services (WITS) platform within fourteen (14) days of service delivery.
2. Collect and report client demographics for all persons with OUD and/or stimulant use disorder served through ~~SORKORE~~-funded services. Data shall be submitted, ~~at a minimum, on a quarterly monthly basis by the 15<sup>th</sup> of the following month January 15<sup>th</sup>, April 15<sup>th</sup>, July 15<sup>th</sup>, and October 15<sup>th</sup> to the Web Infrastructure for Treatment Services (WITS) platform within fourteen (14) days of service delivery and submitted monthly by the 15<sup>th</sup> of each month to KOREReporting@ky.gov a DBHDID-approved data portal.~~
3. Track QRT service delivery and outcomes. Outcomes shall include, but not be limited, to the following:
  - a. Description of persons engaged (e.g., person with substance use disorder, family member, friend, etc.)
  - b. Service types initiated (e.g., residential, outpatient, harm reduction, shelter, etc.).
  - c. Outcome of visit and follow-up plan (e.g., individual not home, will return within 48 hours; individual declined participating in all services but consented to continued QRT follow-up calls and visits, etc.
4. ~~If applicable, s~~Submit ~~monthly~~ quarterly training reports on any trainings conducted as a part of KORE-funded activities. Reports ~~shall be submitted quarterly for the QRT program by January 15<sup>th</sup>, April 15<sup>th</sup>, July 15<sup>th</sup>, and October 15<sup>th</sup> to KOREReporting@ky.gov~~ are due no later than fifteen (15) days following the end of each month.

Reports shall include, but not be limited, to the following information:

- a. Date of training.
- b. Type of training/Content focus.
- c. Number of individuals attending training; and d. Professional type for each trainee (physician, social worker, etc.).

## 2.03 Subcontractors

Subcontractors may be used upon approval of DBHDID.

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## 2.04 CHFS/Department for Behavioral Health, Developmental and Intellectual Disabilities Responsibilities

DBHDID is responsible for providing technical assistance, oversight, and coordination for the provision of services under this contract.

## 2.05 Monitoring Requirements

DBHDID may conduct an annual program performance and compliance site review of Lexington Fayette Urban County Government. Monitoring may consist of an offsite review of data and documentation as well as an on-site review of operations and documentation. A summary report will be provided to Lexington Fayette Urban County Government. and may require submission of a corrective action plan.

## SECTION 3 – PRICING/INVOICING

Funding from this Agreement distributed through subsequent agreements with other entities shall not be issued as a “subrecipient” agreement or a subaward of federal financial assistance.

Submit a monthly invoice for expense reimbursement which shall include a detailed accounting of expenditures by activities including personnel and other operating expenses. The current approved budget is attached to this contract, with understanding that individual line items within the budget are subject to change, as appropriate, but not to exceed the total contract amount of ~~\$50,000~~~~\$100,000~~\$300,000.

Services shall be provided and reimbursed in accordance with the approved budget attached. Please refer to Attachment A.

Invoices for payment shall be submitted to [KOREinvoice@ky.gov](mailto:KOREinvoice@ky.gov) by the 15th day of the month for the previous month’s services, activities, etc. pursuant to the scope of work.

Payment shall be conditioned upon receipt of appropriate, accurate, and acceptable invoices submitted in a timely manner.

The Contractor shall submit monthly invoices. The invoice must include at a minimum:

1. Vendor's name and address.
2. PON2 number that invoice(s) are using for funding.
3. ~~Clearly listed dates of service (from and to)~~Commodity Line and subfunction from which to pay.

~~Example~~

~~Monthly Invoice: Dates of Service from: July 1, 20XX, to: July 31, 20XX.~~

4. Clearly list dates of service (from and to).
45. Date of Invoice (date invoice is prepared).
56. Total amount due for the current billing cycle.
67. Cumulative total for all invoices to date.
78. Detailed description of services provided.
9. Expenditures for each budget category during the invoicing period.

Invoices that do not contain the above requirements will be rejected and returned to the Contractor for re-invoicing.

SAMHSA grant funds may not be used to purchase, prescribe, or provide marijuana or treatment using marijuana.

See, e.g., 45 C.F.R. 75.300(a) (requiring HHS to ensure that Federal funding is expended in full accordance with U.S. statutory and public policy requirements); 21 U.S.C. 812(c)(10) and 841 (prohibiting the possession, manufacture, sale, purchase or distribution of marijuana).

Funds may not be expended through the grant or a subaward by any agency which would deny any eligible client, patient or individual access to their program because of their use of MOUD for the treatment of substance use disorders (e.g., methadone, buprenorphine products including buprenorphine/naloxone combination formulations and buprenorphine monopropduct formulations, naltrexone products including extended-release and oral formulations or implantable buprenorphine.) Specifically, patients must be allowed to participate in methadone treatment rendered in accordance with current federal and state methadone dispensing regulations from an Opioid Treatment Program and ordered by a physician who has evaluated the client and determined that methadone is an appropriate medication treatment for the individual’s opioid use disorder. Similarly, medications available by prescription or office-based implantation must be permitted if it is appropriately authorized through prescription by a licensed prescriber or provider. In all cases, MOUD must be permitted to be continued for as long as the prescriber or treatment provider determines that the medication is clinically beneficial. Grantees must assure that clients will not

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be compelled to no longer use MOUD as part of the conditions of any programming if stopping is inconsistent with a licensed prescriber's recommendation or valid prescription.

## SECTION 4-CHFS GENERAL TERMS AND CONDITIONS

### 4.00-Memorandum of Agreement Standard Terms and Conditions

#### 4.00.01-Contract Components and Order of Precedence

~~The Commonwealth's acceptance of the Contractor's offer indicated by the issuance of a Contract Award by the Department named on page 1 of this Contract and approved by the Division of Procurement and Grant Oversight the Finance and Administration Cabinet and filed with the Government Contract Review Committee shall create a valid Contract between the Parties consisting of the following:~~

A valid contract between the Parties consists of the following:

1. This written ~~a~~Agreement, all attachments ~~thereto~~, and any subsequent written amendments to this Agreement; and
2. The Contractor's final written budget or proposal.

In the event of any conflict between ~~or among the~~ Contract provisions ~~contained in the Contract~~, the order of precedence shall be as enumerated above.

#### 4.00.02-Changes and Modifications to the Contract

Pursuant to 200 KAR 5:311, no modification or change of any provision in the Contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the Commonwealth, and incorporated as a written amendment by the ~~Department Cabinet~~ prior to the effective date of such modification or change. Modification shall be subject to prior approval from the Secretary of the Finance and Administration Cabinet, or ~~this his or her~~ authorized designee, and the LRC Government Contract Review Committee. Memoranda of Understanding, written clarification, and/or correspondence shall not be construed as amendments to the Contract.

If the Contractor finds ~~at any time~~ that existing conditions make modification of the Contract necessary, it shall promptly report such matters to the ~~Contract Specialist identified on page 1~~ Issuer for consideration and decision.

#### 4.00.03-Notice

~~Unless otherwise instructed, all notices, consents, and other communications required and/or permitted by the Contract shall be in writing.~~

~~After the Award of Contract, all communications of a contractual or legal nature are to be in writing and sent to the Agency Contact Person, to be listed in the Extended Description of Commodity Line 1 of the resulting contract, with a copy to the Contract Specialist identified on page 1.~~

~~Notices made by the Department to the Contractor shall be sent to the Contractor representative listed in the Extended Description of Commodity Line 1.~~

#### 4.00.03-Notice

Unless otherwise instructed, all notices, consents, and other communications required and/or permitted by the Contract shall be in writing.

After the Award of Contract, all communications of a contractual or legal nature are to be in writing and sent to the Agency Contact Person, to be listed in the Extended Description of Commodity Line 1 of the resulting contract, with a copy to the Contract Specialist identified on page 1.

Notices made by the Department to the Contractor shall be sent to the Contractor representative listed in the Extended Description of Commodity Line 1.

### 4.01-General Provisions

#### 4.01.01-Headings

The section headings in this Contract are for reference and convenience only and shall not have any effect on the construction or legal effect of this Contract.

#### 4.01.02-Assignment

This Contract shall be binding upon and inure to the benefit of the respective legal successors of the Parties. ~~However, n~~Neither this Contract nor any rights or obligations ~~hereunder~~ may be assigned, in whole or in part, without the prior written consent of CHFS, Division of Procurement and Grant Oversight, and the ~~Division of Accounting Services Finance and Administration Cabinet~~.

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#### 4.01.03-No Required Use of Contract

This Contract does not guarantee any minimum use of services. The Cabinet reserves the right to leave all, or any portion, of the contract unused ~~and/or to establish other contracts for additional and/or related services.~~

~~The Commonwealth of Kentucky may undertake~~ The Cabinet may establish or award other contracts for additional or related work, services, supplies, or commodities, and the Contractor shall fully cooperate with ~~any~~ such other contractors and Commonwealth employees. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees.

#### 4.01.04-Severability

~~It is understood and agreed by the Parties that if~~ If any part, ~~term, or provision~~ of this Contract is held by ~~the courts~~ a court of competent jurisdiction to be illegal or in conflict with any law of the Commonwealth of Kentucky or the United States of America, the validity of the remaining ~~portions or provisions~~ parts shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular part, ~~term, or provision~~ held to be invalid, if the remainder of the Contract is capable of performance.

#### 4.01.05-Indemnification

The Contractor shall indemnify and hold harmless CHFS and its agents, representatives, officers, directors, employees, insurers, successors, and assigns from and against any and all expenses, costs (including attorneys' fees), causes of action, liability, loss and/or damages suffered or incurred by it or any of them, that results from or arises out of (a) this Contract; (b) any and all acts of the Contractor and or its Subcontractor(s); (c) the policies and procedures of the Contractor, specifically including all Contractor employment practices employed by Contractor during the term of this or any prior Contract with CHFS; (d) any dishonest, fraudulent, criminal, or negligent or unauthorized acts or errors or omissions which are committed by Contractor or any of Contractor's employees or agents or Subcontractors; (e) the publication translation, reproduction, delivery, performance, use or disposition of any data produced by CHFS in an unauthorized manner, provided that such action was not taken by Contractor or as a result of the express written request of CHFS; or (f) Contractor's failure to comply with any applicable state or federal laws or regulations.

Provided, however, in the event the Contractor is an agency of the Commonwealth of Kentucky, the state agency's liability shall be governed instead by KRS 49.010 through KRS 49.180 and limited to any award from the Board of Claims up to the jurisdictional amount.

#### 4.01.06-Sovereign Immunity

~~The Parties expressly agree that no~~ No provision of this Contract constitutes a waiver by CHFS or the Commonwealth of Kentucky of any immunities from suit or liability that CHFS or the Commonwealth of Kentucky may have by operation of law.

#### 4.01.07-Force Majeure

~~Neither Party shall be liable for public utility performance (e.g., Postal Service, Telephone, or Water Company) or for the consequence of public utility non-performance. Events or conditions beyond the reasonable control of the Parties, such as natural disasters, fires, floods, elements, transportation crashes, a pandemic requiring the issuance of a State of Emergency Declaration by the Governor of the Commonwealth of Kentucky, or utility failures~~ Events or conditions beyond the reasonable control of the Parties shall not be construed as non-performance, nor shall reductions be applied as a result of such events. ~~provided that Events or conditions beyond the Parties' reasonable control include, but are not limited to, natural or man-made disasters, weather events, transportation crashes, labor strike or shortage, war, riot or other civil unrest, or state or national declared emergency, including a pandemic, or public utility failures. However, CHFS shall have retains~~ the right to obtain ~~the any~~ necessary services elsewhere in the event of such non-performance by the Contractor. ~~and In this event~~ the Parties shall negotiate in good faith any appropriate offset to the compensation payable under this Contract. The Contractor shall cooperate and shall require that any Subcontractor cooperate with CHFS in such event. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Each Party must inform the other, orally or in writing, ~~with confirmation of receipt~~, as soon as possible of the existence of a force majeure event. To preserve this right as a defense each Party must inform the other in writing, with confirmation of receipt, within twenty (20) business days of the ~~existence of a~~ force majeure event or otherwise waive this right as a defense ~~to a claim by the other Party of non-performance.~~

#### 4.01.08-Maintenance of Insurance

During ~~the term of~~ this Contract, the Contractor shall maintain and shall require any Subcontractor to maintain their directors and officers liability insurance, Workers' Compensation insurance, employer liability insurance, and such other liability insurance as reasonably necessary in the Contractor's business judgment to provide adequate coverage against losses and liabilities attributable to the respective acts or omissions of the Contractor and the Subcontractor(s) in the performance of this Contract. The Contractor shall provide ~~or cause to be provided~~ and shall require any Subcontractor to provide ~~or cause to be provided~~ evidence of such coverage upon request.

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~~To the extent that~~ If the Contractor and any Subcontractor are not self-insured, each shall, ~~in any event,~~ name CHFS as an additional insured on any policy of coverage, except the Workers' Compensation and any reinsurance. The Contractor and any Subcontractor shall ~~notify CHFS of the evidence of insurance provide proof of coverage~~ within five (5) business days of coverage. ~~Notice shall be sent in writing to the Department upon request.~~

CHFS shall not be responsible for any premiums or assessments on ~~the any policy or policies~~ held by the Contractor or any Subcontractor under this Contract. CHFS may, at its sole ~~option discretion,~~ pay one or more premiums, if ~~it decides that to do doing~~ so would be in the Cabinet's best interest ~~of the Cabinet.~~ Should CHFS exercise this option, ~~it shall be fully reimbursed by~~ the Contractor ~~shall fully reimburse CHFS,~~ either by the Contractor directly or by an offset against future payments.

The Certificate of Insurance for any policy other than self-insurance or any reinsurance must require that the insurer shall not cancel the coverage without thirty (30) days prior written notice to CHFS.

The Contractor shall notify CHFS within five (5) business days of any cancellation or interruption of the Contractor or Subcontractor's insurance coverage. ~~CHFS In any subcontract, the Contractor shall require in any subcontracts that the any Subcontractor also provide such notice within five (5) business days to the Contractor and CHFS. The Contractor shall assure and require that any Subcontractor assure that Any insurance is must remain in effect at all times during the life of this Contract. If their respective any insurance coverage expires at any time during the term of this Contract, the Contractor and any Subcontractor shall provide at least thirty (30) calendar days prior to the expiration date, to the extent possible; a new Certificate of Insurance evidencing coverage as provided herein for not less than the remainder of the term of this Contract.~~

#### **4.01.09-Licensure, Certification, and Registration**

~~The Contractor shall:~~

- ~~1. Ensure that all appropriate licenses, registrations, and/or certifications necessary are maintained at all times to the extent such are required for performance under this Contract;~~
- ~~2. Ensure that it has readily accessible copies of licenses, registration, and/or certifications necessary; and~~
- ~~3. Produce copies of any required license, registration, and/or certification at the request of CHFS or the Cabinet's designee;~~

~~The Contractor shall ensure that all licenses, registrations, and/or certifications necessary for performance under this Contract are in good standing and maintained at all times; readily accessible; and available for production upon request.~~

#### **4.01.10-Permits, Licenses, Taxes, and Laws**

The Contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments in which work under this Contract is performed.

To the extent required by law, the Contractor shall pay any sales, use, personal property, and income taxes ~~arising out of related to this Contract and the transaction contemplated hereby.~~ Any other taxes levied upon this Contract; ~~the transaction, or the equipment or services delivered pursuant hereto~~ shall be borne by the Contractor.

~~Contractor shall be responsible for all applicable Federal (including FICA), State and Local tax withholdings.~~

#### **4.01.11-Legal Proceedings**

Except as specifically disclosed in writing to CHFS ~~by the Contractor,~~ prior to the date of this Contract, the Contractor certifies there are no suits, investigations, or other proceedings pending or threatened against the Contractor or any Subcontractor that would have a material effect on ~~the Contractor's ability to perform under this Contract, or on if applicable, any Subcontractor's ability to perform under their respective subcontracts, if applicable. Further, the Contractor shall use its best efforts to~~ The Contractor shall notify CHFS within one (1) business day, and in writing within three (3) business days, of ~~all any~~ suits, investigations, or other proceedings involving the Contractor related to this Contract. ~~The Contractor shall send written notice to the Department.~~

#### **4.01.12-No Grant of Employment or Agency**

Nothing in this Contract shall be construed, in any way, as granting ~~to~~ any individual providing services under the Contract any of the claims, privileges, or rights ~~established or recognized~~ under KRS Chapter 18A or KAR Title 101.

~~At no point shall any~~ No individual providing services under this Contract shall be considered a full-time or part-time employee of CHFS, for any purpose, including but not limited to unemployment, taxes, withholding, health insurance, liability, retirement, Workers' Compensation, vacation, sick or other leave, the Family Medical Leave Act, accrued benefits, evaluations, or any other purpose. At all times, any such individual shall be ~~considered and deemed to be~~ an employee, volunteer, or independent contractor of the Contractor.



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~~In no event shall any~~ No employee, volunteer, or independent contractor of the Contractor ~~be deemed to shall~~ be a third-party beneficiary of this Contract or an agent ~~or an employee~~ of the Commonwealth.

#### 4.01.13 CHFS Discrimination Prohibited

During this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment or any individual requesting or receiving services from Contractor ~~based on race, religion, color, national origin, sex, disability, age, political beliefs on the grounds of sex, including gender identity and sexual orientation, race, color, age, political belief, religious creed, disability, national origin, veteran's status, national origin,~~ or any other protected class identified in federal, state or local laws. The Contractor will not retaliate for prior civil rights activity. The Contractor agrees to comply with, as applicable, the Kentucky Civil Rights Act, the Americans with Disabilities Act of 1990 as Amended (ADA), ~~the ADA Amendments Act of 2008 (ADAAA),~~ Section 1557 of the Patient Protection and Affordable Care Act, Title VI of the Civil Rights Act of 1964, ~~Title IX of the Education Amendments of 1972, Section 11(c) of the Food and Nutrition Act of 2008, (as amended at 7 CFR 272.6(a)),~~ Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all other applicable federal, state and local laws prohibiting discrimination.

2. The Contractor agrees to post in conspicuous places, available to program or service applicants or recipients, notices setting forth the provisions of this non-discrimination clause ~~and, if applicable, including the USDA And Justice for All Poster.~~

~~The Contractor agrees to post in a conspicuous place a notice informing individuals with limited English proficiency about the availability of free language assistance services in a language that they can understand.~~

~~The Contractor agrees to post in a conspicuous place a notice informing individuals with disabilities about the availability of free reasonable modifications and auxiliary aids and services in a format that they can understand. Both notices should also inform the public of the process for requesting these free services.~~

3. In all program or service solicitations or advertisements related to this Contract and in all solicitations or advertisements for employees related to this Contract the Contractor will state that they will not discriminate against anyone applying for or receiving assistance or services based on race, religion, color, national origin, sex ~~(including gender identity and sexual orientation),~~ disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity, or any other protected , disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity, or any other protected class identified in federal, state, or local laws.

4. In the event of the Contractor noncompliance with this section, this Contract may be terminated or suspended ~~(in whole or in part);~~ and/or other sanctions may be imposed and remedies invoked.

5. In compliance with the prohibition against ~~Disability-disability~~ discrimination and ~~in compliance with~~ the implementing guidance for the ~~Americans with Disabilities Act (ADA) and the ADAAA issued by the Department of Justice,~~ the Contractor agrees to provide, free of charge, appropriate accommodations ~~and reasonable modifications~~ for applicants or recipients with disabilities, including auxiliary aids and services for persons with disabilities who require alternative means of communication.

6. In compliance with the prohibition against ~~National Origin-national origin~~ discrimination and, by extension discrimination based on ~~Limited-limited~~ English ~~Proficiency-proficiency~~ (LEP), the Contractor agrees to provide meaningful language assistance measures free of charge to program or service applicants or recipients with Limited English Proficiency. The language services shall:

A. Be consistent with ~~any guidance documents issued by the Department of Justice, which sets forth the compliance standards recipients of federal financial assistance must follow to ensure that LEP persons have meaningful access to the program's services and activities~~ USDA Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With limited English proficiency (79 FR 70771) at <https://www.federalregister.gov/documents/2014/11/28/2014-27960/guidance-to-federal-financial-assistance-recipients-regarding-the-title-vi-prohibition-against>;

B. Have a method of identifying LEP individuals; and

C. Provide language assistance measures (e.g., ~~qualified and competent~~ oral interpretation and written translation services; training of staff; ~~note-notice~~ to LEP persons of availability of language access assistance; monitoring compliance, etc.).

#### 4.01.14-Staffing

Any individual providing services under this Contract must not be included on any formal registry or listing that is required by law and which relates to abuse, neglect, sexual offenses, or other inappropriate practices or which, in any way, prohibits their employment for or performance of the services required herein, including but not limited

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to the nurse aid abuse registry and the Child Abuse Prevention and Treatment Act registry. In the event of any such listing or registration, the Contractor shall immediately notify CHFS.

Any individual providing services under this Contract must not be prohibited or debarred from providing services or participating in any state or federal governmental program, including but not limited to the Medicare and Medicaid programs. In the event of any such prohibition or debarment, the Contractor shall immediately notify CHFS.

## **4.02-Contract Performance**

### **4.02.01-Service Delivery Requirements**

All services provided by the Contractor ~~under the terms and conditions of this Contract~~ shall be ~~delivered~~ in accordance with ~~all applicable federal and state statutes and regulations.~~ :

- ~~1. All applicable federal and state statutes and regulations as they are currently in effect;~~
- ~~2. All commitments and assurances as set forth in all CHFS grant awards with respect to goals, strategies, funding, and outcomes made by the Commonwealth as required by and contained in grant applications to federal agencies, foundations, and other agencies providing grant funding and in the resulting award notices from those agencies; and~~
- ~~3. All final federally-funded grant award terms and conditions, including federal reporting and expenditure requirements, for any federally-funded proposed project developed jointly by the Contractor and CHFS and submitted to a federal agency.~~

### **4.02.02-Total Amount of Funds and Budget Revisions**

CHFS shall have the right to recoup the amount of any overpayment, regardless of the reason for the overpayment. Any reconciliation or settlement of fund balances contained in the Summary Line Item Section of this Contract shall be negotiated between CHFS and the Contractor and determined as soon as feasible before the end of the scope of work as set forth under the Contract.

~~The Contractor shall not request a budget revision within the last sixty (60) days of the contract period.~~

### **4.02.03-Subcontractors**

~~Sub-contractors~~ Subcontractors are allowable to ensure all services can be completed. Before engaging a Subcontractor ~~not identified in the Contractor's response~~ or replacing a Subcontractor ~~identified in the Contractor's response~~, the Contractor will notify ~~the agency~~ CHFS and provide ~~the agency with~~ information regarding the proposed Subcontractor, including but not limited to, the proposed Subcontractor's relevant qualifications, experience, and key personnel. ~~The agency-CHFS~~ reserves the right to approve or disapprove any ~~proposed~~ Subcontractor ~~proposed by the prime Contractor; such approval shall not be unreasonably withheld.~~

~~All references to the Contractor shall be construed to encompass both the Contractor and any Subcontractors of the Contractor.~~

#### **4.02.03.01-Responsibility for Subcontractor Contract Requirements**

~~All references to the Contractor shall be construed to encompass both the Contractor and any Subcontractors of the Contractor. The Contractor's shall have a Contract contract with any Subcontractor that the Contractor contracts with related to meet the statement of work, method of payment, and deliverables of this Contract that specifies the responsibilities of the parties and the cost. In addition, the Contractor's Contract with the Subcontractor shall specify that all requirements of this Contract are applicable and binding on the Subcontractor. Any plan to subcontract any of the provisions of this Contract must be set forth in the Contractor's proposal for the delivery of products or services and included in the body of the contract in the Subcontractor's section. If requested, The the Subcontractor must make available to the Contractor and to CHFS, if requested, copies of personnel records and documentation of employees' compliance with the terms and conditions of this Contract.~~

~~No obligation or right of the Contractor under this Contract shall be subcontracted to another, without the prior written approval, of CHFS after CHFS has had the opportunity to review all contract documents setting forth the terms and conditions for the subcontract. the Contractor, upon the Cabinet's request, shall submit the subcontract for approval to the Contract Specialist identified on page 1.~~

~~Prime~~ Contractor is responsible for carrying out the Affirmative Action Steps outlined in 2 CFR Part 200.321 when selecting subcontractors.

#### **4.02.03.02-Subcontractor Monitoring Requirements**

The Contractor shall monitor Subcontractors for ~~programmatic and fiscal~~ compliance with ~~the terms and conditions of this Contract and those the specific provisions set out under of the Contractor's contract with the Subcontractor.~~ the Contractor agrees to utilize restraints or requirements imposed by such factors as generally accepted sound business practices, arm's length bargaining, Federal and State laws regulations, and terms and conditions of the federal grant award in contracting with Subcontractors.

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~~The Contractor further understands and agrees, and shall ensure that any Subcontractor understands and agrees, that CHFS and any of its duly authorized agents or representatives shall have access to any books, documents, papers, records, or any other materials that are pertinent to this Contract or Subcontract, to make monitoring, auditing, examination, excerpts, and transcriptions.~~

#### **4.02.04-Indirect Cost**

Except as ~~otherwise~~ authorized by this Contract, no indirect costs shall be reimbursed.

#### **4.02.05-Financial Record Retention**

The Contractor agrees to maintain all records pertaining to this Contract for a period of not less than three (3) years after all matters pertaining to this Contract (e.g., audit, settlement of audit exceptions, disputes) are resolved in accordance with applicable federal and/or state laws, regulations, and policies (except as may otherwise be specified in this Contract).

#### **4.02.06-Confidential Information**

The Contractor shall comply with ~~the~~ state and federal ~~rules and regulations law~~ governing access to and use of information and data provided by CHFS or collected by the Contractor., ~~and The Contractor~~ will use such information or data only for ~~those~~ purposes expressly ~~delineated, defined, and~~ authorized in this Contract. ~~the Contractor shall comply with the applicable provisions of the Privacy Act of 1974, 5 U.S.C. § 552a. The Contractor shall instruct its employees to use the same degree of care as it uses with its own data to will keep confidential information concerning client data, the business of the Commonwealth, its financial affairs, its relations with its citizens and its employees, as well as any other information that may be specifically classified as confidential by the Commonwealth in writing to the Contractor. The Contractor agrees to ensure that all confidential information and data shall remain confidential. The Contractor shall have an appropriate agreement with its employees to that effect. The Contractor will keep all confidential information and data confidential. The Contractor shall have an appropriate agreement or policy with its employees to that effect.~~

Any dissemination of information about projects funded and the scope of work ~~described in the terms and conditions~~ of this Contract, must be fully documented and reviewed by the Cabinet's project manager before any representation, ~~electronic or otherwise~~, of projects, their funding sources, use of data, or data analyses may be posted to a web page or otherwise published.

~~The Contractor shall permit unrestricted access on demand to personnel of the~~ The Cabinet, the Office of the Attorney General, the Office of the Auditor of Public Accounts, ~~and or~~ any representative of a government funding agency authorized to review records for audit or investigation purposes ~~shall have unrestricted access on demand to its current the Contractor's~~ policies and procedures for ~~ensuring~~ compliance with these confidentiality requirements, the confidentiality agreements with its personnel, and Subcontractor confidentiality assurances.

The foregoing will not apply to:

1. Information that the Commonwealth has released in writing from being maintained in confidence;
2. Information that at the time of disclosure is in the public domain by having been printed and published and available to the public in libraries or other public places where such data is usually collected; or
3. Information that, after disclosure, becomes part of the public domain as defined above, through no act of the Contractor; or
4. Information required to be disclosed by law.

The Contractor shall have an appropriate agreement with its Subcontractors extending these confidentiality requirements to all Subcontractors' employees.

#### **4.02.07-HIPAA Confidentiality Compliance**

~~If applicable, The the~~ Contractor agrees to abide by the "HIPAA Privacy Rule," 45 CFR Parts 160 and 164 established under the Health Insurance Portability and Accountability Act, Public Law 104-191 (42 USC 1320d).

#### **4.02.08-Response/Compliance with Audit Findings**

The Contractor shall ~~take action to comply with and shall ensure its or a Subcontractor's compliance with or correction of~~ any finding of noncompliance with any law, regulation, audit ~~requirement, inspection,~~ or generally accepted accounting principle relating to ~~the services and deliverables or any other deficiency contained in any audit, review, or inspection conducted under this section contract. This action The Contractor will include provide Contractor's delivery to~~ CHFS, for CHFS' approval, a Corrective Action Plan that addresses ~~the~~ deficiencies identified in any audit(s), review(s), or inspection(s) within thirty (30) calendar days of the close of the audit(s), review(s), or inspection(s).



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The Contractor shall bear the expense of compliance with any ~~finding of noncompliance under this section finding that impacts or is related to the Contractor's work under this Contract.~~ Noncompliance may also result in penalties as described in Section 4.02.10-Performance-Based Penalties.

- ~~1. Required by a Kentucky or federal law, regulation, rule, or other audit requirement relating to the Contractor's business;~~
- ~~2. Performed by the Contractor as part of this Contract; or~~
- ~~3. Necessary due to the Contractor's noncompliance with any law, regulation, rule, or audit requirement imposed on the Contractor; or~~
- ~~4. Deficiencies may also result in the assessment of penalties as described in Section 4.02.10-Performance-Based Penalties.~~

#### **4.02.09-Research Project Approval and Institutional Review Board Requirements**

~~Any~~ If applicable, any proposed research project ~~undertaken under the terms and conditions of~~ this Contract shall follow the procedures and protocols ~~established under in~~ 920 KAR 1:060 ~~that provide which provides for a the~~ Cabinet's review of research projects supported or funded in whole or in part through CHFS. If the proposed research project involves human subjects, it shall comply with ~~federal regulations~~ 45 CFR 46 and the requirements of the Cabinet's Institutional Review Board for the Protection of Human Subjects (IRB); ~~which CHFS is required to establish and maintain to protect the rights and welfare of human subjects of research conducted or sponsored by CHFS.~~ The CHFS project manager ~~assigned by CHFS~~ will provide all documentation and protocols for review and approval by the CHFS ~~Institutional Board~~(IRB). No research may begin until ~~the Board the~~ IRB reviews and approves the project.

#### **4.02.10-Performance-Based Penalties**

Upon a determination of failure to perform services outlined in Section 2-Scope of Services, the Cabinet may issue penalties up to five percent (5%) of the total amount of the contract for each instance of non-performance.

If the Cabinet elects not to exercise ~~any of the a~~ penalty clauses ~~herein in a particular instance,~~ this ~~decision~~ shall not be construed as a waiver of the Cabinet's right to pursue the future assessment of any performance standard requirement and associated penalties. ~~In addition, a Corrective Action Plan may be issued as outlined in item 1.B. below.~~

The Cabinet will work with the Contractor to resolve performance issues at all times.

##### **1. Requirement of Corrective Action:**

###### **A. Letter of Concern**

Should the Department determine that the Contractor or any Subcontractor is in violation of any requirement of this Contract, the Department shall notify the Contractor of the deficiency through a "Letter of Concern." The Contractor shall contact the ~~Department's representative~~ designated ~~by the~~ ~~Department Agency Contact~~ within two (2) business days of receipt of the Letter of Concern and shall indicate how such concern is unfounded or how it will be addressed. If the Contractor fails to timely contact the designated representative ~~regarding a Letter of Concern,~~ the Department ~~shall may~~ proceed to the additional enforcement contained in this Contract.

###### **B. Corrective Action Plan**

Should the Cabinet determine that the Contractor or any Subcontractor is not in substantial compliance with any material provision of this Contract, the Cabinet shall issue a written deficiency notice and require a corrective action plan be filed by the Contractor within ten (10) business days following the date of the notice.

A corrective action plan shall ~~delineate describe~~ the time and manner in which each deficiency is to be corrected. The plan shall be subject to approval by ~~the~~ Finance and Administration Cabinet or the ~~Department Cabinet,~~ which may accept the plan as submitted, may accept the plan with specified modifications, or ~~may~~ reject the plan within ten (10) business days of receipt. ~~The~~ Cabinet may reduce the time allowed for corrective action depending on the nature of the deficiency.

###### **C. Failure to Respond to Letter of Concern or Corrective Action Plan Notice**

Failure of the Contractor to respond to a Letter of Concern within two (2) business days of receipt ~~of the Letter of Concern~~ may result in up to a \$500.00 per day penalty for each day until the response is received. Failure of the Contractor to submit a Corrective Action Plan within ten (10) business days following the date of the written deficiency notice may result in up to a \$1,000.00 per day penalty for each day until the Corrective Action Plan is received.

###### **D. Request for Extension**

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Upon request, CHFS may extend the time allowed for both a response to the Letter of Concern and a Corrective Action Plan depending upon the ~~nature of the~~ deficiency. The Contractor shall request an extension of time in writing from the ~~designated~~ representative ~~designated in the Letter of Concern or the written deficiency notice and state~~. The ~~written~~ request shall contain a justification and proposed extension period. If an extension is granted, the penalty per day for both a late Letter of Concern or a late Corrective Action Plan would begin after the expiration of the extension period.

2. Failure to Correct any identified deficiency may result in an action pursuant to Finance Terms ~~Section 3.00~~ Cancellation of this Contract.
3. Upon timely resolution of all performance-based issues outlined in the Corrective Action Plan, the Contractor shall receive reimbursement of a percentage of the amount withheld based on the following tier schedule:
  - A. Resolution within 30 days: at least 75% will be reimbursed to Contractor.
  - B. Resolution within 60 days: at least 50% will be reimbursed to Contractor.
  - C. Resolution within 90 days: at least 25% will be reimbursed to Contractor.
  - D. Resolution after 90 days: total penalty withholdings are forfeited.

#### **4.02.11-Performance and Evaluation**

CHFS may complete a Performance Evaluation (PE) twice a year to document contract performance. PE documents will be entered into the Commonwealth's electronic financial system (eMARS). Performance documented by PE may be considered when making future awards. To obtain a copy of the PE documents ~~completed~~ for this Contract, contact the ~~Contract Specialist-Issuer~~ identified on page 1.

#### **4.02.12-Business Continuity, Disaster Recovery, and Information Security Requirements**

The Contractor shall maintain and implement a Business Continuity Plan, Disaster Recovery Plan, and Information Security Plan, which shall detail the steps the Contractor will take in the event of an outage or failure of either the Contractor's or CHFS' data, ~~or~~ communication or technical support system. Such plans shall enable the Contractor to continue to meet all ~~contractual~~ requirements ~~of CHFS~~. The Contractor shall provide a copy of its plans upon request. All costs associated with activating and sustaining ~~the~~ execution of all plans shall be borne ~~solely~~ by the Contractor.

#### **4.02.13-Protection of Personal Information Security and Breach Investigation Procedures and Practices Act**

When applicable, contractors that receive Personal Information, as defined by ~~and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, KRS 61.932, KRS 61.933, and KRS 61.934, (the "Act");~~ shall secure and protect the Personal Information by; ~~without limitation;~~ complying with all ~~requirements~~ applicable ~~to non-affiliated third parties set forth in the Act. The Contractor hereby agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Personal Information Security and Breach Requirements contained in KRS 61.931- KRS 61.934. the Act.~~

~~The Contractor shall notify as soon as possible, but not to exceed seventy-two (72) hours, the contracting agency, the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, and the Commonwealth Office of Technology of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2) (b)2 applies and the Contractor abides by the requirements set forth in that exception. If the agency is a unit of government listed in KRS 61.931(1)(b), the Contractor shall notify the Commissioner of the Department of Local Government in the same manner as above. If the agency is a public school district listed in KRS 61.931(1)(d); the Contractor shall notify the Commissioner of the Department of Education in the same manner as above. If the agency is an educational entity listed under KRS 61.931(1)(e), the Contractor shall notify the Council on Postsecondary Education in the same manner as above. The notification shall be in writing on a form developed by the Commonwealth Office of Technology.~~

~~The Contractor hereby agrees that the Commonwealth may withhold payment(s) owed to the Contractor for any violation of the Identity Theft Prevention Reporting Requirements.~~

~~The Contractor hereby agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.~~

~~Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the Contractor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.~~

In accordance with KRS 61.932(2)(a) the Contractor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, and that are at least as

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stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology:

See:

<http://technology.ky.gov/ociso/Pages/InformationSecurityPolicies,StandardsandProcedures.aspx>

The Contractor shall comply with all applicable notification provisions in KRS 61.932 and KRS 61.933. The Contractor agrees to undertake a prompt and reasonable investigation of any security breach, as defined in KRS 61.931, as required by KRS 61.933. Upon conclusion of an investigation of a security breach of Personal Information, the Contractor agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach. The Contractor agrees that the Commonwealth may withhold payment(s) owed to the Contractor for any violation of the requirements contained in KRS 61.931- KRS 61.934. The Contractor agrees to cooperate with the Commonwealth in complying with any response, mitigation, correction, investigation, and notification requirements of KRS 61.931- KRS 61.934.

#### 4.03-Breach and Contract Termination

##### 4.03.01-Remedies for Breach

~~It is agreed by the Parties that in~~ In the event of a breach of contract by the Contractor, CHFS may pursue any remedy available to it ~~pursuant to under this Contract, or to the provisions of KRS Chapter 45A, or any remedy that is available to it~~ by law. The remedies ~~available to CHFS~~ may be invoked without regard to the existence of any other available remedy and may include the enforcement of any holdback provision or payment of any specified liquidated damages ~~by the Contractor to CHFS for noncompliance as provided for in this Contract.~~

##### 4.03.02-Transition/Turnover/Closure

~~In the event CHFS requires a transition after a non-renewal or termination by either party, CHFS shall notify the Contractor at the same time CHFS serves notice of the non-renewal or termination, as the case may be.~~

~~Upon receipt of notice of termination of the Contract from CHFS, the Contractor shall provide any turnover assistance reasonably necessary to enable CHFS or its designee to effectively close out the Contract and move the work to another Contractor or to perform the work by itself.~~

In the event of insolvency, bankruptcy, dissolution, withdrawal, or the closure of business operations, the Contractor shall give the Commonwealth at least thirty (30) days written notice of such closure. In the event of non-renewal or termination, upon receipt of the required notice of non-renewal or termination, or the Contractor's closure of business operations, the Contractor shall provide any turnover assistance reasonably necessary to enable CHFS (or its designee) to effectively close out the Contract and move the work to another Contractor or to perform the work by itself.

The Contractor shall:

1. Provide detailed transition documents at no additional cost to CHFS.
2. Be responsible for the orderly transition of work and the accuracy of data in coordination with the new Contractor. ~~CHFS shall ensure the cooperation of the new Contractor to facilitate a smooth transition.~~
3. Within ten (10) calendar days after written notification by CHFS of the initiation of transition, provide a detailed Transition Document. Upon receipt of the detailed Transition Document ~~by CHFS, CHFS shall review the document and~~ within fourteen (14) calendar days ~~CHFS shall~~ provide written instructions to the Contractor as to the packaging, documentation, delivery location, and delivery date of all records, ~~as needed to provide for~~ an orderly transition. If CHFS determines ~~upon review~~ that the Transition Document is missing necessary information, CHFS shall provide the Contractor written instructions as to the information that is still needed, and the Contractor shall amend the Transition Document to include the necessary information.
4. Deliver a ~~full and~~ complete ~~accounting and~~ report ~~as of the date of termination about on~~ the status of services. This report shall be provided to CHFS ~~within twenty-one (21) days of the effective by the close of business on the~~ date of termination.
5. Deliver a complete accounting report to CHFS within ninety (90) days of the effective date of termination.
56. Transfer all documents and records of ~~every kind, including electronic, microfilm, paper, or otherwise, in their possession that pertain pertaining~~ to this Contract, ~~including but not limited to, all those listed in the contract, in its possession~~ within twenty-one (21) days of the effective date of termination. All documents shall be in a CHFS-approved format.
67. Provide reasonable and appropriate assistance to CHFS and its designee(s) regarding the contents of such documents and records, and ~~shall~~ provide reasonable and appropriate reference materials, including data models and file documentation. This assistance shall be provided to the CHFS within twenty (20) days of the effective date of termination.

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78. Pay any and all additional costs incurred by CHFS that are the result of the Contractor's failure to provide the requested records, documents, data or materials within the time frames agreed to in the Transition Document.

9. If the Commonwealth determines the Vendor was providing necessary, direct public services, the Vendor shall also notify any individual receiving such services of the non-renewal, termination, or closure of business operations and advise the individual of reasonable, alternative service options. The Vendor shall provide written certification to the Commonwealth once all individuals have been notified.

Such cost will be determined by the Finance and Administration Cabinet pursuant to KRS 45A.230.

#### 4.03.03 Disputes

The parties agree to take reasonable steps to resolve any disputes arising under this Contract.

#### 4.04-Miscellaneous Provisions

##### 4.04.01-Advertising Award Prohibition

The Contractor shall not refer to the Award of Contract in commercial advertising in such a manner as to state or imply that the ~~firm-Contractor~~ or its services are endorsed or preferred by the Commonwealth of Kentucky.

##### 4.04.02-Bankruptcy

In the event the Contractor becomes ~~the subject-a~~ debtor in a case pending under the Federal Bankruptcy Code, the Commonwealth's right to terminate this Contract may be subject to the rights of a trustee ~~or a debtor-in-possession~~ in bankruptcy to assume or assign this Contract. The trustee shall not have the right to assume or assign this Contract unless the trustee:

1. Promptly cures all defaults under this Contract;
2. Promptly compensates the Commonwealth for the monetary damages incurred as a result of such default; and
3. Provides adequate assurance of future performance, as determined by the Commonwealth.

##### 4.04.03-Code of Ethics

The Contractor and all ~~professional~~ personnel who may provide services under this Contract or any subcontract with the Contractor shall ~~be familiar with and~~ abide by any ~~and all code applicable codes~~ of ethics or conduct ~~as designated by CHFS that have been established by a national or regional association and are generally recognized as being applicable.~~ Failure of the Contractor to abide by ~~the applicable code-codes~~ of ethics ~~shall or conduct may~~ result in the immediate termination of the ~~eContract~~.

##### 4.04.04-Notices and Pamphlets

All notices, employment, advertisements, information pamphlets, research reports, and similar public notices prepared and released by the Contractor, pursuant to this Contract, shall include a statement identifying the appropriate source of funds, for the project or service, including but not limited to, identifying whether the funding is in whole or in part from federal, CHFS, or other state funds.

##### 4.04.05-Scientific Misconduct

~~The If applicable, the~~ Contractor shall set out a procedure for the inquiry, investigation, appeal, and disposition of complaints alleging misconduct in activities involving any, ~~and all~~ research projects funded, in whole or in part, with federal funds included in this Contract, and as authorized under the Public Health Services research grants. Such policies and procedures shall be in accordance with ~~the provisions of~~ 42 CFR Part 93 ~~as amended~~, and shall be made available, upon request, to CHFS. The Contractor shall immediately ~~report to notify~~ CHFS of any activity reported to the Contractor ~~under these terms and conditions. Notice shall be sent in writing to the Department this section.~~

##### 4.04.06-Intellectual Property

~~The Contractor agrees that any formulae, methodology, or other reports and compilations of data provided by the Department to the Contractor to meet the terms and conditions of this Contract shall be the exclusive property of CHFS, unless the specific ownership of any proposed or developed formulae, methodology, or other reports and compilations of data is otherwise identified in any Attachment(s). The Contractor further agrees that any formulae, methodology, other reports and compilations of data prepared or produced by the Contractor during the course of work pursuant to this Contract shall be made available to CHFS for the Cabinet's use upon request and without charge. Any use of these materials other than to meet the terms and conditions of this Contract must be reviewed and approved in advance by CHFS.~~

~~If any of these materials are included in any publication, training materials, or presentations, or for any other type of release of this material other to meet the terms and conditions of this Contract, appropriate credit for the funding source must be given. This provision shall be included in any subcontract, including contracting for staff, issued by the Contractor under this Contract.~~

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Any proposed project under the scope of work for any of the Projects set forth under the Summary Line Item Section in this Contract shall include specific documentation and justification for titles of ownership as:

1. Patents;
2. Trademarks as proposed or registered with the U.S. Patent and Trademark Office; or
3. Copyrights proposed or certified with the Library of Congress, U.S. Copyright Office.

Any formulae, methodology, or other reports and compilations of data provided by CHFS to the Contractor to meet the terms and conditions of this Contract shall be the exclusive property of CHFS. Any other use of these materials must be reviewed and approved in advance by CHFS. Any intellectual property owned by the Contractor prior to this Contract shall remain the exclusive property of the Contractor.

Any formulae, methodology, other reports, or compilations of data prepared or produced by the Contractor pursuant to this Contract shall, upon request, be made available for use by CHFS without charge. The Cabinet reserves a royalty-free, non-exclusive, and irrevocable right to reproduce, publish, or otherwise use the formulae, methodology, or other reports and compilations of data prepared or produced under this Contract.

#### **4.04.07-Certification Regarding Drug-Free Workplace**

The Contractor hereby certifies that it will, or will continue to, provide a drug-free workplace in accordance with 2 CFR Part 182. The Contractor shall at a minimum:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited from the Contractor's workplace and specifying actions that will be taken against employees for violation of such prohibition;
2. Establish an ongoing drug-free awareness program to inform employees about:
  - A. The dangers of drug abuse in the workplace;
  - B. The Contractor's policy of maintaining a drug-free workplace;
  - C. Available drug counseling, rehabilitation, and employee assistance programs; and
  - D. The penalties that may be imposed upon employees for drug abuse violation.

#### **4.04.08-Data Use Agreement —**

Not Required

#### **4.04.0907-Business Associate Agreement**

If applicable The the Contractor shall comply with and execute the attached Business Associate Agreement (BAA). that is in accordance with HIPAA and outlines the requirements imposed by the Health Information Technology for Economic and Clinical Health (HITECH) Act, as enacted by the American Recovery and Reinvestment Act of 2009.

For the purposes of the Business Associate Agreement the following entities are defined:

Covered Entity:

Cabinet for Health and Family Services  
275 East Main Street  
Frankfort, KY 40621

Business Associate:

Lexington Fayette Urban Co Government  
200 E Main Str.  
Lexington, KY, 40507

## **SECTION 5-FEDERAL REQUIREMENTS**

If federal funds are utilized, the Contractor is responsible for complying with all applicable provisions of 2 CFR Part 200, Appendix II, regarding Contract provisions for non-federal entity Contracts under federal award.

The following terms shall apply:



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## **5.00-Certain Provisions Contained Within 2 CFR, Part 200, Appendix II**

### **5.00.01-Clean Air Act and Federal Water Pollution Control Act**

The Contractor and Subcontractors shall ~~agree to~~ comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the HHS and the appropriate Regional Office of the Environmental Protection Agency.

### **5.00.02-Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, Lower Tier Covered Transactions**

In accordance with Federal Acquisition Regulation 52.209-5, 2 CFR 180.300, 2 CFR 200.318, 2 CFR 200.303, and FAP 111-59-00, the Contractor ~~shall certify~~, certifies by signing the Contract, that to the best of its knowledge and belief, the Contractor and/or its Principals is (are) not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency. If debarred during the life of the contract, the vendor shall notify the Commonwealth buyer of record within seventy-two (72) hours of the federal debarment. For this certification, "Principals," means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).

### **5.00.03-Certification of Lobbying Activities**

The Contractor shall disclose any lobbying activities in accordance with Section 1352, Title 31, U.S. Code. The Contractor certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

### **5.00.04-Equipment**

For reimbursement-type contracts, the Contractor shall not purchase equipment or property with contract funds, unless ~~and except as~~ specifically authorized under the scope of work and specifications of this Contract.

Equipment and property reimbursed by CHFS to fulfill the requirements of this Contract, and that may include, but not be limited to, furniture, computer software, computer hardware, office equipment, and supplies with any single item purchase of \$5,000.00 or greater (capital expenditures), requires prior approval by the Cabinet and the federal agency before the federal government will allow the costs in accordance with 2 CFR, Part 200.

### **5.00.05 Telecommunications and Video Surveillance Services or Equipment**

In accordance with 2 CFR § 200.216, ~~Prohibition on certain telecommunications and video surveillance services or equipment~~ Contractors and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered

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telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

#### **5.00.06 Domestic Preferences for Procurements**

In accordance with 2 CFR § 200.322: ~~Domestic preferences for procurements.~~

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

#### **5.00.07 Procurement of Recovered Materials**

In accordance with 2 CFR § 200.323: ~~Procurement of recovered materials.~~

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

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## **Memorandum of Agreement Standard Terms and Conditions**

### **Revised August 2024**

#### **1.00 Effective Date**

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head if the agency has been granted delegation authority by the Secretary.

The vendor shall be paid, upon the submission of proper invoices to the receiving agency at the prices stipulated for the supplies delivered and accepted, or services rendered. Unless otherwise specified, payment will not be made for partial deliveries accepted. Payments will be made within thirty (30) working days after receipt of goods or a vendor's invoice in accordance with KRS 45.453 and KRS 45.454.

#### **2.00 EEO Requirements**

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

#### **3.00 Cancellation Clause**

Both parties shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

#### **4.00 Funding Out Provision**

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar day's written notice of termination of the agreement due to lack of available funding.

#### **5.00 Reduction in Contract Worker Hours**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts.

If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

#### **6.00 Access to Records**

The state agency certifies that it is in compliance with the provisions of KRS 45A.150, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for



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the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

## **7.00 Violation of tax and employment laws**

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively. Disclosure of any violations is required prior to the award of any state contract and throughout the duration the contract.

Failure to disclose violations, shall be grounds for the Commonwealth's disqualification of a contractor or subcontractor from eligibility for future state contracts for a period of two (2) years.

To comply with KRS 45A.485, the Contractor and all subcontractors performing work under this contract shall report any such final determination(s) of any violation(s) within the previous five (5) years to the Commonwealth by providing a list of the following information regarding any violation(s): (1) specific KRS violated, (2) date of any final determination of a violation, and (3) state agency which issued the final determination.

A list of any disclosures made prior to award of a contract shall be attached to the contract. The Contractor affirms that it has not violated any of the provisions of the above statutes within the previous five (5) year period, aside from violations explicitly disclosed and attached to this contract. Contractor further affirms that it will (1) communicate the above KRS 45A.485 disclosure requirements to any subcontractors and (2) disclose any subcontractor violations it becomes aware of to the Commonwealth.

## **8.00 Discrimination**

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration for employment

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without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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**Approvals**

This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

**CHFS Cabinet Approval:**

\_\_\_\_\_

Signature

\_\_\_\_\_

Title

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Date

**Contractor Approval:**

\_\_\_\_\_

Signature

\_\_\_\_\_

Mayor

Title

\_\_\_\_\_

Linda Gorton

Printed Name

\_\_\_\_\_

Date

**CHFS Department Review:**

\_\_\_\_\_

Signature

\_\_\_\_\_

Title

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Date

**Approved as to form and legality:**

\_\_\_\_\_

Attorney

\_\_\_\_\_

Date