

**AMENDMENT TO
COMMUNITY SERVICES AGREEMENT
FISCAL YEAR 2012**

This Amendment to the FY12 Community Services Agreement (“Amendment”) is entered into between the Illinois Department of Human Services (“Department”) and _____ (“Provider”). The Department and Provider are referred to herein collectively as “Parties” and individually as a “Party”.

RECITALS:

WHEREAS, DHS and Provider are parties to that certain agreement known as the FY12 Community Services Agreement (“Agreement”); and

WHEREAS, pursuant to Paragraph 34.2 of the Agreement, the Parties agree to amend the Agreement as follows.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby execute and deliver this Amendment and agree to be bound hereby.

AGREEMENTS:

1. Amendment to Article I of the Agreement. Paragraph 1.4. shall be deleted in its entirety and replaced with the following:

1.4. DUNS Number. Execution of this Agreement by DHS shall be contingent upon Provider’s provision to DHS of a Data Universal Number System (DUNS) number (FAR 52.204-7) within thirty (30) days of submission of the required budget. Provider must obtain a DUNS number prior to full execution of the Agreement.

2. Amendment to Article I of the Agreement. Article I is amended by inserting, after Paragraph 1.4., the following:

1.5 Compliance with American Recovery and Reinvestment Act of 2009. Provider certifies, if applicable, that it does and will comply with the reporting requirements of the American Recovery and Reinvestment Act of 2009 (P. L. 111-5) (ARRA). Provider shall segregate obligations with respect to and expenditures of ARRA Funds from other sources of funding. ARRA Funds shall not be comingled with any other funds. Provider acknowledges that ARRA Projects will not be continued with the funds appropriated by DHS after ARRA Funds are expended and are no longer available.

3. Amendment to Article II of the Agreement: Article II of the Agreement shall be deleted in its entirety and replaced with the following:

2.1 Definitions. Capitalized words and phrases used in this Agreement have the following meanings:

**ARTICLE II
DEFINITIONS**

“Administrative Costs” means those costs that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective, *i.e.*, a particular Award, Project, Program, service, or other direct activity of an organization. A cost may not be allocated to an Award as an Indirect Cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a Direct Cost. Provider is responsible for presenting costs consistently and must not include costs associated with its Indirect Cost Rate as Direct Costs. The term “Administrative Costs” is synonymous with the term “Indirect Costs”. *See, e.g.*, U.S. Department of Health and Human Services Grants Policy Statement, January 1, 2007, at II-26.

“Agreement” means this Agreement, and any addendum, schedules and exhibits thereto, all as amended from time to time. Words such as “herein,” “hereinafter,” “hereof,” “hereto,” and “hereunder” refer to this Agreement as a whole, unless the context otherwise requires.

“Allocable Costs” means costs allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Costs allocable to a specific Project or Program may not be shifted to other Projects or Programs in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by the terms of this Agreement, or for other reasons of convenience.

“Allowable Costs” means costs associated with DHS Programs which are reimbursable from DHS funds. Allowable Costs include expenses that are (1) necessary and related to the provision of Program services, (2) reasonable to the extent that a given cost is consistent with the amount paid by similar agencies for similar services, (3) not specified as unallowable, and (4) not illegal. Research expenses may be considered Allowable Costs if Prior Approval is received from DHS. (89 Ill. Adm. Code §509.20(a))

“ARRA” has the meaning set forth in Paragraph 1.5.

“Award” means financial assistance that provides support to accomplish the purpose of this Agreement. Awards include grants and other agreements in the form of money by DHS to Provider.

“Cash Management Improvement Act” has the meaning set forth in Paragraph 3.4.

“CFDA” means the Catalog of Federal Domestic Assistance, a government-wide compendium of Federal programs, projects, services and activities that provide assistance or benefits to the American public.

“Cost Allocation Plan” means a document that identifies, accumulates and distributes allowable direct and indirect costs under subgrants and contract and identifies the allocation methods used for distributing the costs. A plan for allocating joint costs is required to support the distribution of those costs to the grant program. All costs included in the plan must be supported by formal accounting records to substantiate the propriety of the eventual charges. Providers are required to maintain a Cost Allocation Plan, in accordance with Ill. Adm. Code §509.40(c), if they receive more than one source of funding or operate more than one Program. (89 Ill. Adm. Code §509.20(a)(2))

“Direct Costs” means those costs that can be identified specifically with a particular final cost objective, *i.e.*, a particular Award, Project, Program, service, or other direct activity of an organization, or that can be directly assigned to such an activity with a high degree of accuracy. Direct costs may be charged based on a full-time equivalent or pro-rated basis. A cost may not be assigned to an Award as a Direct Cost if any other cost incurred for the same purpose, in like circumstance, has been allocated to an Award as an Indirect Cost. Provider is responsible for presenting costs consistently and must not include costs associate with its Indirect Cost Rate as Direct Costs.

“Disallowed Costs” means those charges to an award that DHS determines to be Unallowable Costs.

“DUNS Number” means a unique nine digit identification number provided by Dun & Bradstreet for each physical location of Provider’s organization. Assignment of a DUNS Number is mandatory for all organizations required to register with the Federal government for contracts or grants.

“Fee-for-Service Agreement” means a Program for which the payments are made on the basis of a rate, unit cost or allowable cost incurred and are based on a statement or bill as required by DHS. (89 Ill. Adm. Code §509.15) Services provided on a Fee-for-Service basis are Medicaid-related.

“FFATA” has the meaning set forth in Paragraph 1.3.

“Fixed-Rate Agreement” means a Program for which the payments are made on the basis of a rate, unit cost or allowable cost incurred and are based on a statement or bill as required by DHS. Services provided pursuant to a Fixed-Rate Agreement are non-Medicaid services. A Fixed-Rate Agreement, in common terminology, is a non-Medicaid Fee-for-Service Agreement.

“GAAP” means Generally Accepted Accounting Principles.

“Grant” means a Program that receives all or part of the funding in advance of the actual delivery of services. This includes prorated prospective payments and payments

made by DHS on an estimated basis or any other basis when DHS does not know the actual amount earned by Provider. This does not include advance payments made under the authority of Paragraph 9.05 of the State Finance Act, 30 ILCS 105/9.05. (89 Ill. Adm. Code §509.15)

“Grant Report” has the meaning set forth in Paragraph 6.9(b)(8).

“Illinois Grant Funds Recovery Act” has the meaning set forth in Paragraph 3.3.

“Indirect Costs” means those costs that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective, *i.e.*, a particular Award, Project, Program, service, or other direct activity of an organization. A cost may not be allocated to an award as an Indirect Cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a Direct Cost. Provider is responsible for presenting costs consistently and must not include costs associate with its Indirect Cost Rate as Direct Costs. The term “Indirect Costs” is synonymous with the term “Administrative Costs”. *See, e.g.*, U.S. Department of Health and Human Services Grants Policy Statement, January 1, 2007, at II-26.

“Indirect Cost Rate” means is a device for determining in a reasonable manner the proportion of indirect costs each Program should bear. It is a ratio (expressed as a percentage) of the Indirect Costs to a Direct Cost base. If reimbursement of Indirect Costs is allowable under an Award, DHS will not reimburse those Indirect Costs unless Provider has established an Indirect Cost Rate covering the applicable activities and period of time, unless Indirect Costs are reimbursed at a fixed rate. If Provider has a current, applicable rate negotiated by a cognizant Federal agency, Provider shall provide to DHS a copy of its Indirect Cost Rate proposal and the acceptance letter from the Federal government. If Provider does not have a current, applicable rate negotiated by a cognizant Federal agency, DHS shall be responsible for establishing an Indirect Cost Rate for Provider.

“Indirect Cost Rate Proposal” means the documentation prepared by Provider to substantiate its request for the establishment of an Indirect Cost Rate.

“Interest” has the meaning set forth in Paragraph 3.7.

“Net Revenue” means an entity’s total revenue less its operating expenses, interest paid, depreciation, and taxes. “Net Revenue” is synonymous with “Profit”.

“OMB” means the Executive Office of the President of the United States, Office of Management and Budget.

“OMB Circular” means instructions or information issued by the President’s Office of Management and Budget (“OMB”) to Federal agencies.

“Performance Report” shall have the meaning set forth in Article XVII.

“Prior Approval” means written approval by an authorized member of DHS management evidencing prior consent.

“Profit” means an entity’s total revenue less its operating expenses, interest paid, depreciation, and taxes. “Profit” is synonymous with “Net Revenue”.

“Program” means the services to be provided pursuant to this Agreement. For the purposes of this Agreement, Project and Program are synonymous terms.

“Project” means the services to be provided pursuant to this Agreement. For the purposes of this Agreement, Project and Program are synonymous terms.

“Program Costs” means all Allowable Costs incurred by Provider and the value of the contributions made by third parties in accomplishing the objectives of the Award during the Term of this Agreement.

“Project Costs” means all Allowable Costs incurred by Provider and the value of the contributions made by third parties in accomplishing the objectives of the Award during the Term of this Agreement.

“Program Income” means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the Award. Interest earned on advances of Federal funds under this Agreement are not Program Income.

“Subrecipient” means an entity that expends Awards received through DHS to carry out a Program or Project, but does not include an individual that is a beneficiary of such a Program or Project. Characteristics indicative of an Award received by Subrecipient are when the entity (1) determines who is eligible to receive financial assistance; (2) has its performance measured against whether the objectives of the Program are met; (3) has responsibility for programmatic decision making; (4) has responsibility for adherence to applicable Program compliance requirements; and (5) uses the funds provided under this Agreement to carry out a program of the entity as compared to providing goods and services for a program of DHS.

“Term” has the meaning set forth in Paragraph 22.1.

“Unallowable Costs” means expenses which, pursuant to DHS rules or policies or Federal regulations, are not reimbursable from DHS funds, unless Prior Approval is received from DHS. Specific Unallowable Costs are set forth in 89 Ill. Adm. Code §509.20(b).

“Vendor” means an entity that (1) provides goods and services within normal business operations; (2) provides similar goods or services to many different purchasers; (3) operates in a competitive environment; (4) provides goods or services that are ancillary to the operation of the Program; and (5) is not subject to the compliance requirements of the Program.

4. **Amendment to Article III of the Agreement.** Article III shall be deleted in its entirety and replaced with the following:

**ARTICLE III
PAYMENT**

3.1. **Estimated Amount of Agreement.** The estimated amount payable by DHS to Provider under this Agreement is \$_____. Provider agrees to accept DHS' payment for services rendered as specified in the Exhibits incorporated as part of this Agreement.

3.2. **Availability of Appropriation.** Obligations of the State will cease immediately without penalty or further payment being required if, in any fiscal year, the Illinois General Assembly or Federal funding source fails to appropriate or otherwise make available sufficient funds for this Agreement, or if the Governor decreases DHS' funding by reserving some or all of DHS' appropriations pursuant to power delegated to the Governor by the Illinois General Assembly. DHS shall notify Provider of such funding failure.

3.3. **Illinois Grant Funds Recovery Act.** If the funds awarded are subject to the provisions of the Illinois Grant Funds Recovery Act (30 ILCS 705/1 *et seq.*), any funds remaining at the end of the Agreement period which are not expended or legally obligated by Provider shall be returned to DHS within forty-five (45) days after the expiration of this Agreement. The provisions of 89 Ill. Adm. Code §511 shall apply to any funds awarded that are subject to the Illinois Grant Funds Recovery Act.

3.4. **Cash Management Improvement Act of 1990.** If applicable, Federal funds received under this Agreement shall be managed in accordance with the Cash Management Improvement Act of 1990 (31 U.S.C. §6501 *et seq.*) and any other applicable Federal laws or regulations. Programs to which this applies will be listed in the applicable Program Manual and on DHS' website.

3.5. **Payments to Third Parties.** Provider agrees to hold harmless DHS when DHS acts in good faith to redirect all or a portion of any Provider payment to a third party. DHS will be deemed to have acted in good faith if it is in possession of information that indicates Provider authorized DHS to intercept or redirect payments to a third party or when so ordered by a court of competent jurisdiction.

3.6. **Reductions to Estimated Amount.** The Agreement amount is established on an estimated basis and may be increased at any time during the term. DHS may decrease the estimated amount of this Agreement at any time during the term if DHS believes Provider will not utilize the funds during the term, or has utilized funds in a manner that was not authorized by this Agreement, or if the Governor decreases DHS' funding by reversing some or all of DHS' appropriations pursuant to power delegated to the Governor by the Illinois General Assembly. Provider will be notified, in writing, of any adjustment, and reason for the adjustment, of the estimated amount of this Agreement. In the event of such reduction, services provided by Provider under Exhibit A may be reduced accordingly.

3.7. Interest.

(a) Federal pass-through grant funds disbursed under this Agreement and held for over five (5) days by Provider shall be placed, when possible, in an interest-bearing account. All interest earned shall be considered grant funds and are subject to the same restrictions. Provider is subject to the requirements of the Cash Management Improvement Act (31 CFR 205 Subpart B) and shall meet all record-keeping requirements. If Provider does not comply with these requirements, Provider will be subject to the interest penalties described in Subpart A of the Cash Management Improvement Act. Any exceptions to this requirement must be approved, in writing, by DHS.

(b) The provisions of the Illinois Grant Funds Recovery Act, 30 ILCS 705/1 *et seq.*, shall apply to any State funds received by Provider under this Agreement. The period of time during which grant funds may be expended by Provider is the Term of this Agreement as set forth in Article XXI hereof.

(c) This Paragraph 3.7 does not apply to Fee-for-Service Agreements or to providers who are not subject to the terms of the Cash Management Improvement Act (31 U.S.C. §6501 *et seq.*).

3.8. Timely Billing Required. For all non-recurring Federal funding, such as one-time grants and ARRA funding, Provider must submit any bills to DHS within thirty (30) days of the end of the quarter. Failure to submit such bills within thirty (30) days will render the amounts billed an unallowable cost which DHS cannot reimburse. In the event that Provider is unable, for good cause, to submit its bills within thirty (30) days of the end of the quarter, Provider shall so notify DHS within that thirty (30) day period and may request an extension of time to submit the bills. DHS' approval of Provider's request for an extension shall not be unreasonably withheld. This Paragraph 3.8 does not apply to Fee-for-Service Agreements.

5. Amendment to Article IV of the Agreement. Article IV of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE IV
SCOPE OF SERVICES/PURPOSE OF GRANT; SPECIAL PROVISIONS**

4.1. Services to be Provided/Purpose of Grant. Provider will provide the services as described herein and in the Program Manual, Attachment and the Exhibits hereto and in accordance with all terms and conditions set forth herein and all applicable administrative rules. All programmatic reporting required under this Agreement is described in the attached Exhibits and applicable Program Manual.

4.2. Special Provisions. None.

6. Amendment to Article V of the Agreement. Article V of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE V
BUDGET**

5.1. Exemptions. Fee-for-Service and Fixed-Rate Agreements are exempt from the following budget provisions.

5.2. Submission of Proposed Budget. Provider shall submit to DHS' Office of Contract Administration, 222 South College Avenue, Springfield, Illinois, 62704, a summary of Provider's budget prepared in accordance with the summary template provided by DHS. Provider may, but is not required to, submit a detailed budget.

5.3. Preparation of Budget. Provider's budget must be prepared in accordance with the template provided by DHS, which follows and adheres to all applicable Federal guidelines. DHS' policy requires that all grantees follow Federal regulations for Federal funding as set forth in Article VI hereof.

5.4. Payment Contingency. Payment to Provider is contingent upon DHS' receipt and approval of Provider's proposed budget. Provider will be paid for reasonable services provided prior to DHS' approval of Provider's budget.

5.5. Budget Revisions. The budget is a schedule of anticipated grant expenditures that is approved by DHS for carrying out the purposes of administering the Grant. When Provider or third parties support a portion of the grant costs, the budget includes the non-Federal as well as the Federal share of grant expenses. Provider shall obtain Prior Approval from DHS whenever a budget revision is necessary because of:

- (a) the transfer to a third party (by subgranting, contracting or other means) of any work under the Grant;
- (b) the transfer of funds from other budget detail line items greater than ten percent (10%) of the line item; or
- (c) changes in the scope of services or objectives of the Grant.

5.6. Approvals. All requests for budget revisions shall be signed by Provider's grant administrator and submitted to DHS' Office of Contract Administration for approval by DHS management.

5.7. Notification. Within thirty (30) calendar days from the date of receipt of the request for budget revisions, DHS will review the request and notify Provider whether or not the budget revision has been approved.

7. **Amendment to Article VI of the Agreement.** Article VI of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE VI
ALLOWABLE COSTS**

6.1. Allowability of Costs; Cost Allocation Methods. The allowability of costs and cost allocation methods for work performed under Grants, Fee-for-Service Agreements and Fixed-Rate Agreements shall be determined in accordance with the applicable Federal cost principles and the terms and conditions of the grant award. However, DHS delegates to Provider the authority to approve costs that the applicable cost principles state are allowable only with the prior approval of the funding agency, unless specifically prohibited by other articles in these general Grant provisions, or by the terms and conditions of the Grant award. Examples of such costs are foreign travel; equipment purchases; and publication and printing costs. **This delegation does not relieve Provider of the responsibility to document that such charges are reasonable, necessary and allocable to the Project.**

6.2. Transfer of Costs. Cost transfers between Grants, whether as a means to compensate for cost overruns or for other reasons, are unallowable. See U.S. Department of Health and Human Services Grants Policy Statement, January 1, 2007, at II-43.

6.3. OMB Circular A-21. The Federal cost principles that apply to public and private institutions of higher education are set forth in OMB Circular A-21 (relocated to 2 CFR Part 220).

6.4. OMB Circular A-122. The Federal cost principles that apply to nonprofit organizations that are not institutions of higher education are set forth in OMB Circular A-122 (relocated to 2 CFR Part 230).

6.5. OMB Circular A-87. The Federal cost principles that apply to State, local and Federally-recognized Indian tribal governments are set forth in OMB Circular A-87 (relocated to 2 CFR Part 225).

6.6. 48 CFR Part 31. The Federal cost principles and procedures for cost analysis and the determination, negotiation and allowance of costs that apply to commercial organizations are set forth in 48 CFR Part 31.

6.7. Changes in Scope of Services. Any Project that is carried out must be consistent with the scope of services. **No changes may be made to the scope of services without Prior Approval from DHS. All requests for a change in the scope of services shall be signed by Provider's grant administrator and submitted to DHS' Office of Contract Administration for approval by DHS management.**

6.8. Changes in Key Grant Personnel. When it is specifically required as a condition of a Grant, the replacement of the Project director or the co-director or a substantial reduction in the level of their effort, *e.g.*, their unanticipated absence for more than three (3) months, or a twenty-five percent (25%) reduction in the time devoted to the Project, requires Prior Approval from DHS. Prior Approval will also be needed for the replacement or the substantial reduction in

the level of effort of other personnel whose work is deemed by DHS to be critical to the Project's successful completion. All requests for approval of changes in key Project personnel shall be signed by Provider's grant administrator and submitted to the appropriate DHS program officer. Evidence of the qualifications for replacement personnel (such as a *résumé*) shall be included.

6.9. Financial Management Standards. The financial management systems of Provider and its Subrecipients must meet the following standards:

(a) **Accounting System.** Provider organizations and their Subrecipients must have an accounting system that provides accurate, current, and complete disclosure of all financial transactions related to each State- and Federally-sponsored Project. Accounting records must contain information pertaining to State and Federal pass-through awards, authorizations, obligations, unobligated balances, assets, outlays, and income. These records must be maintained on a current basis and balanced at least quarterly. Cash contributions to the Project from third parties must be accounted for in the general ledger with other grant funds. Third party in-kind (non-cash) contributions are not required to be recorded in the general ledger, but must be under accounting control, possibly through the use of a memorandum ledger.

(b) **Source Documentation.** Accounting records must be supported by such source documentation as canceled checks, bank statements, invoices, paid bills, donor letters, time and attendance records, activity reports, travel reports, contractual and consultant agreements, and subaward documentation. All supporting documentation should be clearly identified with the grant and general ledger accounts which are to be charged or credited.

(1) The documentation required for salary charges to grants is prescribed by the cost principles applicable to the entity's organization ([see Title XX Social Services](#)).

(2) For grantees subject to OMB Circular A-21 (educational institutions), documentation for salary charges shall be based on either a system of monitored workload or a system of personnel activity reports for professional or professorial staff. Nonprofessional employees must keep personnel activity reports.

(3) For grantees subject to OMB Circular A-122 (nonprofit organizations), documentation for all salary charges shall be based on a system of personnel activity reports.

(4) For grantees subject to OMB Circular A-87 (State and local governments), documentation for salary charges shall be based on a system of personnel activity reports unless an employee is working solely on a single Federal award. In such case, the charge for salary will be supported by a certification signed by the employee or the employee's supervisor.

(5) Personnel activity reports shall account on an after-the-fact basis for one hundred percent (100%) of the employee's actual time, separately indicating the time spent on the grant, other grants or projects, vacation or sick leave, and administrative time, if applicable. The reports must be signed by the employee, approved by the appropriate official, and coincide with a pay period. These time records should be used to record the distribution of salary costs to the appropriate accounts no less frequently than quarterly.

(6) Formal agreements with independent contractors, such as consultants, must include a description of the services to be performed, the period of performance, the fee and method of payment, an itemization of travel and other costs which are chargeable to the agreement, and the signatures of both the contractor and an appropriate official of Provider.

(7) If third party in-kind (non-cash) contributions are used on a Project, the valuation of these contributions must be supported with adequate documentation.

(8) Fee-for-Service Agreements and Fixed-Rate Agreements must submit a Grant Report at the end of the Grant period. DHS will provide Provider with a template for use in preparing the Grant Report.

(c) **Internal Control.** Effective control and accountability must be maintained for all cash, real and personal property, and other assets. Provider must adequately safeguard all such property and must provide assurance that it is used solely for authorized purposes. Provider must also have systems in place that ensure compliance with the terms and conditions of each grant award.

(d) **Budget Control.** Records of expenditures must be maintained for each Grant Project by the cost categories of the approved budget (including indirect costs that are charged to the Project), and actual expenditures are to be compared with budgeted amounts no less frequently than quarterly.

(e) **Cash Management.** Provider must have written procedures to minimize the time elapsing between the receipt and the disbursement of Grant funds to avoid having excess Federal funds on hand. Requests for advance payment shall be limited to Provider's immediate cash needs and are not to exceed anticipated expenditures for a three- (3) to five- (5) day period.

6.10. Profits. It is not permitted for any person or entity to earn a Profit from a Grant. *See, e.g.,* U.S. Department of Health and Human Services Grants Policy Statement, January 1, 2007, at II-29.

8. **Amendment to Article VII of the Agreement.** Article VII of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE VII
ADMINISTRATIVE REQUIREMENTS**

7.1. Administrative Requirements. Provider and its Subrecipients must meet the following administrative requirements with respect to Federal pass-through Grants:

(a) OMB Circular A-110. The uniform administrative requirements for grants and other agreements with institutions of higher education, hospitals and other non-profit organizations are set forth in OMB Circular A-110 (relocated to 2 CFR Part 215).

(b) OMB Circular A-102. The uniform administrative requirements for the management of grants and cooperative agreement with State, local and Federally-recognized Indian tribal governments are set forth in OMB Circular A-102.

(c) Equipment. Provider must comply with the uniform standards set forth in 2 CFR §§215.31–215.37 governing the management and disposition of property furnished by the Federal government whose cost was charged to a Project supported by a Federal Award. Any waiver from such compliance must be granted by the President’s Office of Management and Budget and must be set forth in Paragraph 4.2 of this Agreement.

(d) Procurement Standards. Provider must comply with the standards set forth in 2 CFR §§215.40-215.48 for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal and State statutes and executive orders.

7.2. Audits. Provider and its Subrecipients must meet the following audit requirements with respect to Federal pass-through grants:

(a) Institutions of higher education and other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. §§7501-7507) and revised OMB Circular A-133 (“Audits of States, Local Governments and Non-Profit Organizations”).

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. §§7501-7507) and revised OMB Circular A-133 (“Audits of States, Local Governments and Non-Profit Organizations”).

(c) For-profit hospitals not covered by the audit provisions of revised OMB Circular A-133 shall be subject to the audit requirements of the Federal awarding agency.

(d) Commercial organizations shall be subject to the audit requirements of the Federal awarding agency or the prime recipient as incorporated in the award document.

9. **Amendment to Article VIII of the Agreement.** Article VIII of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE VIII
REQUIRED CERTIFICATIONS**

8.1. **Certifications.** Provider shall be responsible for compliance with the enumerated certifications to the extent that the certifications legally apply to Provider, its subcontractors, or Subrecipients.

(a) **Bribery.** Provider certifies that it has not been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois, nor made an admission of guilt of such conduct which is a matter of record (30 ILCS 500/50-5).

(b) **Bid Rigging.** Provider certifies that it has not been barred from contracting with a unit of State or local government as a result of a violation of Paragraph 33E-3 or 33E-4 of the Criminal Code of 1961 (720 ILCS 5/33E-3 or 720 ILCS 5/33E-4, respectively).

(c) **Educational Loan.** Provider certifies that it is not barred from receiving State agreements as a result of default on an educational loan (5 ILCS 385/1 *et seq.*).

(d) **International Boycott.** Provider certifies that neither it nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provision of the U.S. Export Administration Act of 1979 (50 U.S.C. Appx. 2401 *et seq.* or the regulations of the U.S Department of Commerce promulgated under that Act (15 CFR Parts 730 through 774).

(e) **Dues and Fees.** Provider certifies that it is not prohibited from selling goods or services to the State of Illinois because it pays dues or fees on behalf of its employees or agents, or subsidizes or otherwise reimburses them for payment of their dues or fees to any club which unlawfully discriminates (775 ILCS 25/1, 25/2).

(f) **Drug-Free Work Place.** Provider certifies that neither it nor its employees shall engage in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the performance of this Agreement and that Provider is in compliance with all the provisions of the Illinois Drug-Free Workplace

Act (30 ILCS 580/3 and 580/4). Provider further certifies that it is in compliance with the government-wide requirements for a drug-free workplace as set forth in 45 CFR Part 82.

(g) **Motor Voter Law.** Provider certifies that it is in full compliance with the terms and provisions of the National Voter Registration Act of 1993 (42 U.S.C. §1973gg *et seq.*).

(h) **Clean Air Act and Clean Water Act.** Provider certifies that it is in compliance with all applicable standards, order or regulations issue 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.*)

(i) **Debarment.** Provider certifies that it is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any Federal department or agency (45 CFR Part 76).

(j) **Pro-Children Act.** Provider certifies that it is in compliance with the Pro-Children Act of 1994 in that it prohibits smoking in any portion of its facility used for the provision of health, day care, early childhood development services, education or library services to children under the age of eighteen (18), which services are supported by Federal or State government assistance (except such portions of the facilities which are used for inpatient substance abuse treatment) (20 U.S.C. §6081 *et seq.*).

(k) **Debt to State.** Provider certifies that neither it, nor its affiliate(s), is/are barred from being awarded a contract because Provider, or its affiliate(s), is/are delinquent in the payment of any debt to the State, unless Provider, or its affiliate(s), has/have entered into a deferred payment plan to pay off the debt, and Provider acknowledges DHS may declare the contract void if the certification is false (30 ILCS 500/50-11).

(l) **Grant for the Construction of Fixed Works.** Provider certifies that all Projects for the construction of fixed works which are financed in whole or in part with funds provided by this Agreement shall be subject to the Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*) unless the provisions of that Act exempt its application. In the construction of the Project, Provider shall comply with the requirements of the Prevailing Wage Act including, but not limited to, inserting into all contracts for such construction a stipulation to the effect that not less than the prevailing rate of wages as applicable to the Project shall be paid to all laborers, workers, and mechanics performing work under the contract and requiring all bonds of contractors to include a provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract.

(m) **Health Insurance Portability and Accountability Act.** Provider certifies that it is in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law No. 104-191, 45 CFR Parts 160, 162 and 164, and the Social Security Act, 42 U.S.C. §§1320d-2 through 1320d-7, in that it may not use or disclose protected health information other than as permitted or required by law and agrees to

use appropriate safeguards to prevent use or disclosure of the protected health information. Provider shall maintain, for a minimum of six (6) years, all protected health information.

(n) **Sarbanes-Oxley Act.** Provider certifies that neither it nor any officer, director, partner or other managerial agent of Provider has been convicted of a felony under the Sarbanes-Oxley Act of 2002, nor a Class 3 or Class 2 felony under Illinois Securities Law of 1953, or that at least five (5) years have passed since the date of the conviction.

Provider further certifies that it is not barred from being awarded a contract under 30 ILCS 500/50-10.5, and acknowledges that DHS shall declare the contract void if this certification is false (30 ILCS 500/50-10.5).

(o) **Forced Labor Act.** Provider certifies that it complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the State under this Agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction (PA 93-0307).

(p) **Environmental Protection Act Violations.** Provider certifies in accordance with 30 ILCS 500/50-12 that it is not barred from being awarded a contract under this Paragraph. Provider acknowledges that the contracting agency may declare the contract void if this certification is false (PA 93-575, effective 1/1/04).

(q) **Goods From Child Labor Act.** Provider certifies that no foreign-made equipment, materials, or supplies furnished to the State under this Agreement have been produced in whole or in part by the labor of any child under the age of twelve (12) (PA 94-0264).

(r) **Abuse of Adults with Disabilities Intervention Act.** Provider certifies that it is in compliance with the Abuse of Adults with Disabilities Intervention Act to protect people with disabilities who are abused, neglected or financially exploited and who, because of their disability, cannot seek assistance on their own behalf. Anyone who believes a person with a disability living in a domestic setting is being abused, neglected or financially exploited must file a complaint with the Office of Inspector General, Department of Human Services. Provider has an obligation to report suspected fraud or irregularities committed by individuals or other entities with whom it interacts on DHS' behalf and should make a report to the appropriate program office (20 ILCS 2435/1 *et seq.*).

(s) **Procurement Lobbying.** Provider warrants and certifies that it and, to the best of its knowledge, its subcontractors have complied and will comply with Executive Order No. 1 (2007) (EO 1-2007). EO 1-2007 generally prohibits providers and subcontractors from hiring the then-serving Governor's family members to lobby procurement activities of the State, or any other unit of government in Illinois including local governments, if that procurement may result in a contract valued at over \$25,000.

This prohibition also applies to hiring for that same purpose any former State employee who had procurement authority at any time during the one-year period preceding the procurement lobbying activity.

(t) **Restrictions on Lobbying.** Provider certifies that it is in compliance with the restrictions on lobbying set forth in 45 CFR Part 93.

(u) **Business Entity Registration.** Provider certifies that it is not required to register as a business entity with the State Board of Elections pursuant to the Procurement Code (30 ILCS 500/20-160 and 30 ILCS 500/50-37). Further, Provider acknowledges that all contracts between State agencies and a business entity that do not comply with this Paragraph shall be voidable under Section 50-60 of the Procurement Code (30 ILCS 500/50-60).

(v) **Nonprocurement Debarment and Suspension.** Provider certifies that it is in compliance with Subpart C of 2 CFR Part 180 as supplemented by 2 CFR Part 376, Subpart C.

(w) **Grant Award Requirements.** Provider certifies that it is in compliance with 45 CFR Part 74.

(x) **Federal Funding Accountability and Transparency Act of 2006.** Provider certifies that it is in compliance with the terms and requirements of PL 109-282.

(y) **American Recovery and Reinvestment Act of 2009.** Provider certifies, if applicable, that it is in compliance with the terms and requirements of PL 111-5 with respect to reporting fraud, waste and abuse to the Department of Health and Human Services' Fraud Unit. Contact information for reporting fraud, waste and abuse is located at <http://www.oig.hhs.gov/fraud/hotline/>. Provider shall also report such instances of misconduct to the Secretary of DHS with a copy to DHS' General Counsel and DHS' Chief Financial Officer at the following postal or electronic addresses:

To the Secretary:

**401 South Clinton Street, Third Floor
Chicago, Illinois 60607
Michelle.Saddler@illinois.gov**

To the General Counsel:

**100 West Randolph Street, Suite 6-400
Chicago, Illinois 60601
Mary-Lisa.Sullivan@illinois.gov**

To the Chief Financial Officer:

**100 South Grand Avenue East
Springfield, Illinois 62762
Carol.Kraus@illinois.gov**

(z) **Disclosures.** Provider hereby certifies that all services provided under this Agreement are explicitly identified and described herein. Services not identified in this Agreement are not authorized or chargeable to DHS, including, but not limited to, administrative costs or fiscal agent fees. Provider further acknowledges that DHS is subject to applicable Federal and State laws, rules and policies that are reasonable and necessary to deliver the goods and services as described in the scope of services and required deliverables. Those applicable laws, rules and policies govern the procurement of goods and services as well as the hiring of personnel who perform work or services in an office or position of employment with the State of Illinois. In accordance therewith, Provider hereby certifies, under penalty of applicable laws, that Provider will not provide services that are not specifically described in this Agreement. Provider further agrees that it is in good standing with the State of Illinois, has not been debarred or suspended from conducting business with the Federal government or primary recipients of Federal grants or contracts, and will not retain any individual(s) as staff on behalf of DHS in contravention of State rules and practices governing the hiring of State employees.

10. Amendment to Article IX of the Agreement. Article IX of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE IX
BACKGROUND CHECKS**

9.1. Employee and Subcontractor Background Checks. Provider certifies that neither Provider, nor any employee or subcontractor assigned to work on DHS' premises, has a felony conviction. Any request for an exception to this rule must be made in writing, listing the name of the individual, home address, type of conviction and date of conviction. Provider will also supply DHS with a list of individuals assigned to work on DHS' premises at least ten (10) working days prior to the start of their employment, unless circumstances prevent Provider from giving a list within that time. If Provider cannot provide a list, or the name of an individual, at least ten (10) working days prior to his/her employment, it shall do so as soon as possible. DHS may conduct criminal background checks on Provider's employees and subcontractors assigned to work on DHS' premises. Provider agrees to indemnify and hold harmless DHS and its employees for any liability accruing from said background checks.

11. Amendment to Article X of the Agreement. Article X of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE X
UNLAWFUL DISCRIMINATION**

10.1. Compliance with Nondiscrimination Laws. Provider, its employees and subcontractors under subcontract made pursuant to this Agreement, shall comply with all applicable provisions of State and Federal laws and regulations pertaining to nondiscrimination,

sexual harassment and equal employment opportunity including, but not limited to, the following laws and regulations and all subsequent amendments thereto:

- (a) The Illinois Human Rights Act (775 ILCS 5/1-101 *et seq.*);
- (b) The Public Works Employment Discrimination Act (775 ILCS 10/1 *et seq.*);
- (c) The United States Civil Rights Act of 1964 (as amended) (42 U.S.C. §§2000a- 2000h-6). (*See also* guidelines to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons [Federal Register: February 18, 2002 (Volume 67, Number 13, Pages 2671-2685)]);
- (d) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
- (e) The Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*);
- (f) Executive Orders 11246 and 11375 (Equal Employment Opportunity) and Executive Order 13160 (2000) (Improving Access to Services for Persons with Limited English Proficiency); and
- (g) Charitable Choice: In accordance with Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

12. Amendment to Article XI of the Agreement. Article XI of the Agreement shall be deleted in its entirety and replaced with the following:

ARTICLE XI LOBBYING

11.1 Improper Influence. Provider certifies that no Federally-appropriated funds have been paid or will be paid by or on behalf of Provider to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal agreement, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any Federal agreement, grant, loan or cooperative agreement.

11.2. Federal Form LLL. If any funds, other than Federally-appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence any of the above persons in connection with this Agreement, the undersigned must also complete and submit Federal Form LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

11.3. Lobbying Costs. If there are any Indirect Costs associated with this Agreement, total lobbying costs shall be separately identified in the Program budget, and thereafter treated as other Unallowable Costs.

11.4. Subawards. Provider must include the language of this Article XI in the award documents for any subawards made pursuant to this Award. All Subrecipients are also subject to certification and disclosure.

11.5. Certification. This certification is a material representation of fact upon which reliance was placed to enter into this transaction and is a prerequisite for this transaction, pursuant to 31 U.S.C. §1352. Any person who fails to file the required certifications shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

13. Amendment to Article XII of the Agreement. Article XII of the Agreement shall be deleted in its entirety and replaced with the following:

ARTICLE XII CONFIDENTIALITY

12.1. Compliance with Law. Provider shall comply with applicable State and Federal statutes, Federal regulations and DHS administrative rules regarding confidential records or other information obtained by Provider concerning persons served under this Agreement. The records and information shall be protected by Provider from unauthorized disclosure.

14. Amendment to Article XIII of the Agreement. Article XIII of the Agreement shall be deleted in its entirety and replaced with the following:

ARTICLE XIII INDEMNIFICATION AND LIABILITY

12.1. Indemnification. Provider agrees to hold harmless DHS against any and all liability, loss, damage, cost or expenses, including attorneys' fees, arising from the intentional torts, negligence or breach of contract of Provider, with the exception of acts performed in conformance with an explicit, written directive of DHS.

12.2. Liability. Neither Party assumes liability for actions of the other Party under this Agreement including, but not limited to, the negligent acts and omissions of either Party's agents, employees and subcontractors in the performance of their duties as described under this Agreement.

15. **Amendment to Article XIV of the Agreement.** Article XIV of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XIV
MAINTENANCE AND ACCESSIBILITY OF RECORDS**

14.1. Records Retention. Provider shall maintain for a minimum of five (5) years from the later of the date of final payment under this Agreement, or the expiration of this Agreement, adequate books, records and supporting documents to comply with 89 Ill. Adm. Code 509. If an audit, litigation or other action involving the records is begun before the end of the five-year period, the records shall be retained until all issues arising out of the action are resolved.

14.2. Accessibility of Records. Provider agrees to make books, records, related papers and supporting documentation relevant to this Agreement available to authorized DHS representatives, auditors (including the Illinois Auditor General and Illinois Attorney General), Federal authorities and any other person as may be authorized by DHS or by the State of Illinois or Federal statute. Provider will cooperate fully in any such audit.

14.3. Failure to Maintain Books and Records. Failure to maintain books, records and supporting documentation shall establish a presumption in favor of the State for the recovery of any funds paid by the State under this Agreement for which adequate books, records and supporting documentation are not available to support disbursement.

16. **Amendment to Article XV of the Agreement.** Article XV of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XV
RIGHT OF AUDIT AND MONITORING**

15.1. Monitoring of Conduct. DHS shall monitor Provider's conduct under this Agreement which may include, but shall not be limited to, reviewing records of Program performance in accordance with administrative rules, license status review, fiscal and audit review, Agreement compliance and compliance with the affirmative action requirements of this Agreement. DHS shall have the authority to conduct announced and unannounced monitoring visits and Provider shall cooperate with DHS in connection with all such monitoring visits. Failure of Provider to cooperate with DHS in connection with announced and unannounced monitoring visits is grounds for DHS' termination of this Agreement.

15.2. Requests for Information. DHS may request, and Provider shall supply, upon request, necessary information and documentation regarding transactions constituting contractual (whether a written contract is in existence or not) or other relationships, paid for with funds received hereunder. Documentation may include, but is not limited to, information regarding Provider's contractual agreements, identity of employees, shareholders and directors of Provider and any party providing services which will or may be paid for with funds received

hereunder, including, but not limited to, management and consulting services rendered to Provider.

15.3. Rights of Review. This Article XV does not give DHS the right to review a license that is not directly related to the Program being audited nor does it allow DHS to unilaterally revoke a license without complying with all due process rights to which Provider is entitled under Federal, State or local law or applicable rules promulgated by DHS.

17. Amendment to Article XVI of the Agreement. Article XVI of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XVI
FINANCIAL REPORTING REQUIREMENTS**

16.1. Quarterly Reports. Provider agrees to submit financial reports as requested and in the format required by DHS. If Provider receives funding in excess of \$25,000, Provider shall file with DHS quarterly reports describing the expenditure(s) of the funds related thereto. Quarterly reports must be submitted no later than November 15, February 15, May 15 and August 15. Failure to submit such quarterly reports may cause a delay or suspension of funding (30 ILCS 705/1 *et seq.*).

16.2. Close-out Reports. Provider agrees to provide annual close-out reports within ninety (90) calendar days following the end of the State fiscal year. In the event that this Agreement is terminated prior to the end of the State fiscal year, Provider agrees to provide a close-out report within ninety (90) calendar days of such termination.

16.3. Audited Financial Statements.

(a) Providers not subject to OMB Circular A-133 agree to provide audited financial statements within 120 days after Provider's fiscal year ending on or after June 30, 2012. This deadline may be extended in the discretion of DHS' Chief Financial Officer.

(b) Providers subject to OMB Circular A-133 agree to provide audited financial statements within 180 days after Provider's fiscal year ending on or after June 30, 2012.

(i) In the discretion of DHS' Chief Financial Officer, this deadline may be extended up to nine (9) months after the end of Provider's fiscal year without approval from the cognizant Federal agency.

(ii) This deadline may be extended longer than nine (9) months after the end of Provider's fiscal year contingent upon approval by the cognizant Federal agency.

16.4. Annual Financial Reports.

(a) Providers not subject to OMB Circular A-133 agree to provide Annual Financial Reports (AFR) or Grant Reports within 120 days after Provider's fiscal year ending on or after June 30, 2012. The AFR or Grant Report must cover the period July 1, 2011 through June 30, 2012 regardless of Provider's fiscal year end.

(b) Providers subject to OMB Circular A-133 agree to provide AFRs or Grant Reports within 180 days after Provider's fiscal year ending on or after June 30, 2012. The AFR or Grant Report must cover the period July 1, 2011 through June 30, 2012 regardless of Provider's fiscal year end.

16.5. Compliance with Grant Requirements of Comptroller. All Grant agreements must comply with the requirements of the Illinois Office of the Comptroller applicable to grants including, but not limited to, Accounting Bulletin No. 161, issued on July 2, 2010.

16.6. Compliance with Federal Reporting Requirements. All Grant agreements funded in whole or in part with Federal funds must comply with all applicable Federal reporting requirements.

16.7. Notice. Provider shall immediately notify DHS of any event that may have a material impact on Provider's ability to perform this Agreement.

16.8. Effect of Failure to Comply. Failure to comply with reporting requirements shall result in the withholding of funds, the return of improper payments, or Unallowable Costs.

18. Amendment to Article XVII of the Agreement. Article XVII of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XVII
PERFORMANCE REPORTING REQUIREMENTS**

17.1. Monthly and Quarterly Reports. Provider agrees to submit Performance Reports as requested and in the format required by DHS. Performance measures listed in Exhibit B must be reported no less frequently than quarterly. Some Providers may be required to submit monthly Performance Reports; in such case, DHS shall notify Provider of same and said monthly reports shall be submitted by the 15th day of the month following the most recent month which is the subject of the report. Quarterly Performance Reports must be submitted no later than the 15th day of the month following the close of the quarter. Failure to submit such monthly or quarterly Performance Reports may cause a delay or suspension of funding (30 ILCS 705/1 *et seq.*).

17.2. Annual Performance Reports. Provider agrees to submit Annual Performance Reports, as requested and in the format required by DHS, within ninety (90) calendar days following the end of the State fiscal year.

17.3. Final Performance Reports. In the event that this Agreement terminates prior to the end of the State fiscal year, Provider agrees to provide Final Performance Reports within ninety (90) days after the expiration or termination of the Award.

17.4. Content of Performance Reports. All Annual and Final Performance Reports must include qualitative and quantitative information on customer characteristics, program objectives, program activities, performance measures/outcomes, and evaluation efforts. Appendices may be used to include additional supportive documentation. Additional content and format guidelines for the Final Performance Report will be determined by DHS contingent on the Award's statutory, regulatory and/or administrative requirements.

19. Amendment to Article XVIII of the Agreement. Article XVIII of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XVIII
AUDIT REQUIREMENTS**

18.9. Submission of Audit Report. Provider shall annually submit an independent audit report and/or supplemental revenue and expense data to DHS in accordance with 89 Ill. Adm. Code 507 (Audit Requirements of DHS) to enable DHS to perform fiscal monitoring and to account for the usage of funds paid to Provider under this Agreement.

18.10. Performance of Audits. For those organizations required to submit an independent audit report, the audit is to be conducted by a Certified Public Accountant or Certified Public Accounting Firm licensed in the State of Illinois. For audits required to be performed subject to Government Auditing Standards, Provider shall request and maintain on file a copy of the auditor's most recent peer review report and acceptance letter.

18.11. Instructions. If Provider is subject to the audit requirements, DHS will send to Provider, by registered or certified mail, detailed instructions related to independent audit requirements, including provisions for requesting waivers, modifications and filing extensions, by May 31, 2012.

20. Amendment to Article XIX of the Agreement. Article XIX of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XIX
SERVICE PROVIDER DIRECTORY**

19.1. Inclusion in Directory. Provider shall be listed in DHS' Service Provider Directory, an Internet-based directory of all providers with whom DHS has an agreement to provide services. Provider must provide the following information to DHS for inclusion in the Service Provider Directory:

- (a) The legal name of Provider;

- (b) Provider's business address;
- (c) Provider's business telephone number;
- (d) Provider's hours of operation;
- (e) The general category of services provided by Provider;
- (f) Areas served by Provider; and
- (g) Provider's service specialization, if any.

19.2. Multiple Locations. In the event that Provider has more than one location, Provider shall include either (1) the address, phone number and hours of operation of each location, or (2) the address, phone number and hours of operation of Provider's primary location.

19.3. Update Requirements. Provider must advise DHS immediately any time there is a change to any of the foregoing information in order that the change may be reflected in the Service Provider Directory no later than the effective date of the change. The reporting requirements of this Article XIX are in addition to, and do not supersede or otherwise affect, all other reporting requirements set forth in this Agreement.

19.4. Submission of Information. The information requested in this Article XIX must be submitted to DHS' Office of Contract Administration, 222 South College Avenue, Springfield, Illinois, 62704, within thirty (30) days after execution of this Agreement.

21. Amendment to Article XX of the Agreement. Article XX of the Agreement shall be deleted in its entirety and replaced with the following:

ARTICLE XX INDEPENDENT CONTRACTOR

20.1. Independent Contractor. Provider is an independent contractor under this Agreement and neither Provider nor any employee or agent of Provider is an employee of DHS and does not acquire any employment rights with DHS or the State of Illinois by virtue of this Agreement. Provider will provide the agreed services and achieve the specified results free from the direction or control of DHS as to the means and methods of performance. Provider will be required to provide its own equipment and supplies necessary to conduct its business; provided, however, that in the event, for its convenience or otherwise, DHS makes any such equipment and/or supplies available to Provider, Provider's use of such equipment or supplies provided by DHS pursuant to this Agreement shall be strictly limited to official DHS or State of Illinois business and not for any other purpose, including any personal benefit or gain.

22. Amendment to Article XXI of the Agreement. Article XXI of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXI
SANCTIONS**

21.1. Imposition of Sanctions. DHS may impose sanctions on Provider should it fail to comply with the conditions stipulated herein. Sanctions include, but are not limited to, payment suspension, loss of payment, enrollment limitations and certification and licensure action (including, but not limited to, conditional, probationary and termination status), or other actions up to and including termination of this Agreement.

23. Amendment to Article XXII of the Agreement. Article XXII of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXII
TERM AND TERMINATION**

22.1. Term. This Agreement shall be effective on July 1, 2011, and shall expire on June 30, 2012, unless terminated or extended pursuant to the terms hereof.

22.2. Termination. This Agreement may be terminated by either Party for any or no reason upon thirty (30) days' prior written notice to the other Party.

22.3. Breach. DHS may terminate this Agreement immediately in the event Provider substantially or materially breaches this Agreement. In the event that DHS terminates this Agreement as a result of the substantial or material breach of the Agreement by Provider, Provider shall be paid for work satisfactorily performed prior to the date of termination.

24. Amendment to Article XXIII of the Agreement. Article XXIII of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXIII
POST-TERMINATION/NON-RENEWAL**

23.1. Duties. Upon notice by DHS to Provider of the termination of this Agreement or notice that DHS will not renew, extend or exercise any options to extend the term of this Agreement, or that DHS will not be contracting with Provider beyond the term of this Agreement, Provider shall, upon demand:

(a) Cooperate with DHS in assuring the transition of recipients of services hereunder for whom Provider will no longer be providing the same or similar services or who choose to receive services through another provider.

(b) Provide copies of all records related to recipient services funded by DHS under this Agreement.

(c) Grant reasonable access to DHS to any and all Program sites serving recipients hereunder to facilitate interviews of recipients to assure a choice process by which recipients may indicate Provider preference.

(d) Provide detailed accounting of all service recipients' funds held in trust by Provider, as well as the identity of any recipients for whom Provider is acting as a representative payee of last resort.

23.2. Survival. The promises and covenants of this Article XXIII shall survive the Term of this Agreement for the purposes of the necessary transition of recipients of services hereunder.

25. **Amendment to Article XXIV of the Agreement**. Article XXIV of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXIV
SUBCONTRACTS**

24.1. Subcontracting/Delegation. Provider may not subcontract any portion of this Agreement nor delegate any duties hereunder without Prior Approval of DHS. In emergencies, Provider will request approval in writing within seven (7) days of the use of a subcontractor to fulfill any obligations of this Agreement. Approved subcontractors shall adhere to all other provisions of this Agreement.

26. **Amendment to Article XXV of the Agreement**. Article XXV of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXV
INTERNET ACCESS**

25.1. Access to Internet. Provider must have Internet access. Internet access may be either dial-up or high-speed/DSL. Provider must maintain, at a minimum, one business e-mail address that will be the primary receiving point for all e-mail correspondence from DHS. Provider may list additional e-mail addresses at contract execution. The additional addresses may be for a specific department/division of Provider or for specific employees of Provider. Provider may list additional e-mail points of contact in the same manner as listed above. Provider must notify DHS of any e-mail address changes within five (5) business days from the effective date of the change.

27. Amendment to Article XXVI of the Agreement. Article XXVI of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXVI
NOTICE OF CHANGE**

26.1. Notice of Change. Provider shall give thirty (30) days' prior written notice to DHS if there is a change in Provider's legal status, Federal employer identification number (FEIN), DUNS number, or address. DHS reserves the right to take any and all appropriate action as a result of such change(s).

26.2. Failure to Provide Notification. Provider agrees to hold harmless DHS for any acts or omissions of DHS resulting from Provider's failure to notify DHS of these changes.

26.3. Circumstances Affecting Performance; Notice. In the event Provider becomes a party to any litigation, investigation or transaction that may reasonably be considered to have a material impact on Provider's ability to perform under this Agreement, Provider shall notify DHS, in writing, within five (5) calendar days. Such notice must be sent to the Secretary of DHS with a copy to DHS' General Counsel and DHS' Chief Financial Officer at the following postal or electronic addresses:

To the Secretary:
401 South Clinton Street, Third Floor
Chicago, Illinois 60607
Michelle.Saddler@illinois.gov

To the General Counsel:
100 West Randolph Street, Suite 6-400
Chicago, Illinois 60601
Mary-Lisa.Sullivan@illinois.gov

To the Chief Financial Officer:
100 South Grand Avenue East
Springfield, Illinois 62762
Carol.Kraus@illinois.gov

26.4. Effect of Failure to Provide Notice. Failure to provide such notice shall be grounds for immediate termination of this Agreement.

28. Amendment to Article XXVII of the Agreement. Article XXVII of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXVII
ASSIGNMENT**

27.1. Assignment Prohibited. Provider understands and agrees that this Agreement may not be sold, assigned, or transferred in any manner, to include an assignment of Provider's rights to receive payment hereunder, and that any actual or attempted sale, assignment, or transfer without the Prior Approval of DHS shall render this Agreement null, void, and of no further effect.

29. Amendment to Article XXVIII of the Agreement. Article XXVIII of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXVIII
MERGERS/ACQUISITIONS**

28.1. Effect of Reorganization. Provider acknowledges that this Agreement is made by and between DHS and Provider, as Provider is currently organized and constituted. No promise or undertaking made hereunder is an assurance that DHS agrees to continue this Agreement, or any license related thereto, should Provider reorganize or otherwise substantially change the character of its corporate or other business structure. Provider agrees that it will give DHS prior notice of any such action and will provide any and all reasonable documentation necessary for DHS to review the proposed transaction including financial records and corporate and shareholder minutes of any corporation which may be involved. Failure to comply with this Article XXVIII shall constitute a material breach of this Agreement.

30. Amendment to Article XXIX of the Agreement. Article XXIX of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXIX
CONFLICT OF INTEREST**

29.1. Prohibited Payments. Provider agrees that payments made by DHS under this Agreement will not be used to compensate, directly or indirectly, any person: (1) currently holding an elective office in this State including, but not limited to, a seat in the General Assembly, or (2) employed by an office or agency of the State of Illinois whose annual compensation is in excess of sixty percent (60%) of the Governor's annual salary, or \$106,447.20 (30 ILCS 500/50-13).

29.2. Request for Exemption. Provider may request written approval from DHS for an exemption from Paragraph 28.1. Provider acknowledges that DHS is under no obligation to provide such exemption and that DHS may, if an exemption is granted, grant such exemption subject to such additional terms and conditions as DHS may require.

31. Amendment to Article XXX of the Agreement. Article XXX of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXX
TRANSFER OF EQUIPMENT**

30.1. Transfer of Equipment. DHS shall have the right to require that Provider transfer to DHS any equipment, including title thereto, purchased in whole with DHS funds. DHS shall notify Provider in writing should DHS require the transfer of such equipment. Upon such notification by DHS, and upon receipt or delivery of such equipment by DHS, Provider will be deemed to have transferred the equipment to DHS as if Provider had executed a bill of sale therefor.

30.2. Meaning of "Equipment". For purposes of this Article XXX, equipment means any equipment used in the administration and/or operation of the Program having a useful life of two (2) years or more and an acquisition cost of at least \$500.

32. Amendment to Article XXXI of the Agreement. Article XXXI of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXXI
WORK PRODUCT**

31.1. Definition of Work Product. "Work Product" means all the tangible materials, regardless of format, delivered by Provider to DHS under this Agreement. Provider assigns to DHS all right, title and interest in and to Work Product. However, nothing in this Agreement shall be interpreted to grant DHS any right, title or interest in Provider's intellectual property that has been or will later be developed outside the scope of services provided hereunder.

31.2. License to DHS. To the extent Provider-owned works are incorporated into Work Product, Provider grants to DHS a perpetual, non-exclusive, paid-up, world-wide license in the use, reproduction, publication and distribution of such Provider-owned works when included within the Work Product. Provider shall not copyright Work Product without DHS' prior written consent.

31.3. License to Provider; Objections. DHS grants to Provider a perpetual, non-exclusive, paid-up license to publish academic and scholarly articles based upon the services rendered under this Agreement. All materials to be published shall first be submitted to DHS at least forty-five (45) days prior to publication or other disclosure. Upon written objection from DHS, Provider shall excise any confidential information, as that term is defined in applicable State and Federal statutes, federal regulations and DHS administrative rules, from materials before publication. DHS may also object to the publication on grounds other than confidentiality. As to the latter objections, Provider and DHS will attempt to resolve DHS' concerns within the forty-five (45) day review period, or as otherwise agreed between the Parties. DHS waives any objections not made to Provider in writing before expiration of the review period.

31.4. Unresolved Objections; Disclaimer. If DHS' objections on grounds other than confidentiality are not resolved within the review period or other such time as agreed by the Parties, then Provider may publish the materials but shall include therein the following disclaimer: "Although the research or services underlying this article were funded in whole or in part by the Illinois Department of Human Services, the Illinois Department of Human Services does not endorse or adopt the opinions or conclusions presented in the article." Notwithstanding the above, DHS shall not have the right to control or censor the contents of Provider publications.

33. Amendment to Article XXXII of the Agreement. Article XXXII of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXXII
PROMOTIONAL MATERIALS; PRIOR NOTIFICATION**

32.1. Publications, Announcements, etc. In the event that DHS funds are used in whole or in part to produce any written publications, announcements, reports, flyers, brochures or other written materials, Provider agrees to include in these publications, announcements, reports, flyers, brochures and all other such material, the phrase "Funding provided in whole or in part by the Illinois Department of Human Services." Exceptions to this requirement must be requested, in writing, from DHS and will be considered authorized only upon written notice thereof to Provider.

32.2. Prior Notification/Release of Information. Provider agrees to notify DHS prior to issuing public announcements or press releases concerning work performed pursuant to this Agreement, or funded in whole or in part by this Agreement, and to cooperate with DHS in joint or coordinated releases of information.

34. Amendment to Article XXXIII of the Agreement. Article XXXIII of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXXIII
INSURANCE**

33.1. Purchase and Maintenance of Insurance. Provider shall purchase and maintain in full force and effect during the term of this Agreement casualty and bodily injury insurance, as well as insurance sufficient to cover the replacement cost of any and all real and/or personal property purchased or otherwise acquired, in whole or in part, with funds disbursed pursuant to this Agreement.

33.2. Cost of Insurance. If, during the term of this Agreement, Provider's cost of property and casualty insurance increases by twenty-five percent (25%) or more, or if new State regulations impose additional costs on Provider, Provider may request that DHS review this Agreement and adjust the compensation or reimbursement provisions hereof in accordance

with any agreement reached, all of which shall be at the sole discretion of DHS and subject to the limitations of DHS' appropriated funds.

33.3. Claims. If a claim is submitted for real and/or personal property purchased in whole with funds from this Agreement and such claim results in the recovery of money, such money recovered shall be surrendered to DHS.

35. Amendment to Article XXXIV of the Agreement. Article XXXIV of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXXIV
LAWSUITS**

34.1. Indemnification. Indemnification will be governed by the State Employee Indemnification Act (5 ILCS 350/1 *et seq.*) as interpreted by the Illinois Attorney General. DHS makes no representation that Provider, an independent contractor, will qualify or be eligible for indemnification under said Act.

36. Amendment to Article XXXV of the Agreement. Article XXXV of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXXV
GIFTS AND INCENTIVES PROVISION**

35.1. Gift Ban. Provider is prohibited from giving gifts to DHS employees (5 ILCS 430/10-10). Provider will provide DHS with advance notice of Provider's provision of gifts, excluding charitable donations, given as incentives to community-based organizations in Illinois and clients in Illinois to assist Provider in carrying out its responsibilities under this Agreement.

37. Amendment to Article XXXVI of the Agreement. Article XXXVI of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXXVI
EXHIBITS; ATTACHMENT AND PROGRAM MANUAL**

36.1. Exhibits A through D. Exhibits A through D and any documents referenced therein are attached hereto and are incorporated herein in their entirety.

36.2. Attachment and Program Manual. The related Attachment and Program Manual are hereby incorporated into this Agreement and can be found on the following DHS website: <http://www.dhs.state.il.us/page.aspx?item=53557>.

38. Amendment to Article XXXVII of the Agreement. Article XXXVII of the Agreement shall be deleted in its entirety and replaced with the following:

**ARTICLE XXXVII
MISCELLANEOUS**

37.1. Renewal. This Agreement may be renewed unilaterally by DHS for additional periods. Provider acknowledges that this Agreement does not create any expectation of renewal.

37.2. Amendments. This Agreement may be modified or amended at any time during its term by mutual consent of the Parties, expressed in writing and signed by the Parties.

37.3. Severability. If any provision of this Agreement is declared invalid, its other provisions shall not be affected thereby.

37.4. No Waiver. No failure of DHS to assert any right or remedy hereunder will act as a waiver of its right to assert such right or remedy at a later time nor constitute a course of business upon which Provider may rely for the purpose of denial of such a right or remedy to DHS.

37.5. Applicable Law. This Agreement and all subsequent amendments thereto, if any, shall be governed and construed in accordance with the laws of the State of Illinois.

37.6. Compliance with Law. This Agreement and Provider's obligations and services hereunder are hereby made and must be performed in compliance with all applicable Federal and State laws, including the American Recovery and Reinvestment Act of 2009 and its reporting requirements, Federal regulations, State administrative rules, including 89 Ill. Adm. Code §509, and any and all license and/or professional certification provisions.

37.7. Precedence. In the event there is a conflict between this Agreement and any of the exhibits hereto, this Agreement shall control. In the event there is a conflict between this Agreement and relevant statute(s) or Administrative Rule(s), the relevant statute(s) or rule(s) shall control.

37.8. Headings. Article and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

37.9. Entire Agreement. Provider and DHS understand and agree that this Agreement constitutes the entire agreement between them and that no promises, terms, or conditions not recited, incorporated or referenced herein, including prior agreements or oral discussions, shall be binding upon either Provider or DHS.

37.10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be considered to be one and the same agreement, binding on all Parties hereto, notwithstanding that all Parties are not signatories to the same counterpart.

37.11. Reductions in Amounts Payable. Unless otherwise provided in any Exhibits made a part hereof, the amount(s) payable, or estimated amount(s) payable, to Provider under this Agreement is/are subject to a reduction as necessary or advisable, based upon actual or projected budgetary considerations, at the sole discretion of DHS, or as may be directed by the Office of the Governor.

37.12. Certification. Provider certifies under oath that (1) all representations made in this Agreement are true and correct and (2) all funds awarded pursuant to this Agreement shall be used only for the purpose(s) described herein. Provider acknowledges that the award is made solely upon this certification and that any false statements, misrepresentations or material omissions shall be the basis for immediate termination of this Agreement.

39. Amendment to Exhibit A of the Agreement. Exhibit A of the Agreement shall be deleted in its entirety and replaced with the following:

**EXHIBIT A
SCOPE OF SERVICES/DELIVERABLES**

40. Amendment to Exhibit B of the Agreement. Exhibit B of the Agreement shall be deleted in its entirety and replaced with the following

**EXHIBIT B
PERFORMANCE MEASURES**

41. Effect of Amendment. Except for the express provisions of this Amendment, the Agreement and all attachments thereto shall remain unmodified and in full force and effect.

42. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be considered to be one and the same agreement, binding on all Parties hereto, notwithstanding that all Parties are not signatories to the same counterpart.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized representatives.

ILLINOIS DEPARTMENT OF HUMAN SERVICES

By: _____
Michelle R.B. Saddler
Secretary

By: _____

Date: _____

Date: _____