# 2016 STATE AND COUNTY CONTRACT
# COVERING SOCIAL SERVICES AND COMMUNITY PROGRAMS

## INTRODUCTION

This Contract is made and entered into for the period January 1, 2016, through December 31, 2016, hereinafter referred to as the "Contract," by and between the Department of Health Services, hereinafter referred to as "Department," and the State of Wisconsin, herein referred to as "State," and the County Board of Supervisors of County, herein after referred to as "County," all of which are hereinafter collectively referred to as "the parties."

WHEREAS, the Department and the County are directed by Wis. Stat. § 46.031 to enter into a Contract for Social Services and Community Programs provided or purchased by the County pursuant to Wis. Stat. §§ 46.034(3), 46.21, 46.22, 51.42, and 51.437.

NOW, THEREFORE, in consideration of the mutual responsibilities and agreements hereinafter set forth, the Department and the County agree as follows:

## 1.0 DEFINITIONS

"**Contract Appendix**" means an addition to the main body of the Contract, which is attached prior to the parties signing the Contract. An appendix does not require signatures of either party.

"**Contract Addendum**" means an addition to the Contract, which is attached after both parties have signed the Contract. An addendum does require the signature of either parties or their authorized designee(s).

"**Contract Amendment**" means a signed memorandum from the Department that notifies the County that funds will be added or subtracted to the Contract. An Amendment requires signature of both parties and their authorized designee(s) unless the only effect of the Department memorandum is to add funds.

## 2.0 PROVISION OF SERVICES AND PROGRAMS

2.01 The County agrees that the Social Services and Community Programs and functions performed and services provided or purchased by the County as specified in this Contract shall be performed in accordance with State statutes and administrative rules and federal statutes, rules and regulations, and court orders, and shall meet the requirements of this Contract, of the Human Services Reporting System (HSRS) Handbook as updated quarterly; of the Divisions Numbered Memo Series; of the Allowable Cost Policy Manual and Financial Management Manual, as set forth in or established by the Department under the authority granted to it by State and federal statutes, rules, and regulations and court orders. (Divisions Numbered Memos, the Financial Management and the Allowable Cost Policy Manuals can be viewed on the Department's web site at http://dhs.wisconsin.gov.) If the Department proposes a change to the requirements after January 1, 2016, in the functions performed and services provided or purchased by the County, which is not the result of implementation of State and federal statutes, rules and regulations, court orders or settlement agreements arising from litigation, the County, using a single statewide point of contact, will have thirty (30) calendar days to comment on the fiscal impact of the change to the Department before the requirement takes effect. The single statewide point of contact may request an extension of the comment period of up to fifteen (15) calendar days. The Department shall consider the fiscal impact on the County before implementing the change in requirements. It is not the Department's intent to unilaterally impose any new and previously unbudgeted programs on the County.

If the County is of the opinion that any directive of the Department conflicts with a mandate contained in a federal statute or regulation, the County shall nevertheless follow the directive of the Department. The County shall be held harmless from claims alleging a conflict between any departmental directive and a mandate contained in a federal statute or regulation to the extent that the County has followed the department directive alleged to be in conflict with the mandate.

2.02 Except as provided in State and federal statutes, the County shall perform the functions and provide the services within the limits of State appropriations as well as County appropriations used to match State and federal funds.

Nothing in this Contract shall be construed to require the expenditure of County funds, except as specifically provided herein and authorized by the County board.

Nothing contained in this Contract shall be construed to supersede the lawful power or duties of either party, the County Department of Community Programs, the County Department of Developmental Disabilities, the County Department of Social Services, the County Department of Human Services and the County Department of Health and Human Services. The parties agree that the County shall carry out its responsibilities under the sections of this Contract through its appropriate County departments.

2.03 The Department shall have, and retain in perpetuity, all ownership rights in any software or modifications thereof and associated documentation designed, developed, or installed as a result of this Contract.

2.04 The County and the Department shall work together to ensure the efficient and effective operation of automated systems in support of the programs covered by this Contract in the County.

The County shall keep all State-owned data processing equipment that is located in the County in a secure place and compensate the Department for any theft, damage, or other loss of the equipment if the Department's prescribed security precautions have not been met.

The County shall designate an employee as the County Security Officer to be responsible for ensuring compliance with security precautions for State-owned computer equipment, data confidentially, and user access.

The State shall retain ownership of all Department-installed computer equipment and shall be responsible for maintenance and installation costs as specified by the Department.

The County shall comply with the provisions contained in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 45 Code of Federal Regulations (CFR) § 95.621 and any other applicable federal or State laws or requirements for maintaining security and privacy for protected health information, personally identifiable information and any other confidential information.

2.05 Since a portion of the funds under this Contract includes federal funds, the County agrees to comply with Public Law 103-227, also known as the Pro-Children Act of 1994. The law requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age 18. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants and Children (WIC) coupons are redeemed.

2.06 The County agrees to comply with the federal regulations implementing HIPAA to the extent those regulations apply to the services the County provides or purchases with funds provided under this Contract.

Certain programs included in this agreement are defined as "Health Plans" within HIPAA rules. As such, the Department must comply with all provisions of the law and has deemed that Counties are "Business Associates" within the context of the law. As a result, the Department requires Counties to sign and return with this Contract the Business Associate Agreement included in section 14.0 of this Contract.

## 3.0 REIMBURSEMENT

3.01 Subject to the terms and conditions set forth in this Contract, the Department shall reimburse the County for the functions it performs and services it provides or purchases as set forth in sections 2.0 and 9.0 of this Contract. In addition, any funding restrictions in the appendices apply.

3.02 The Department will not make pre-payments in programs using Medicaid funded monies. A list of the profile numbers attached to these programs is included in section 9.03 of this Contract.

3.03 The County shall submit all claims for reimbursement under this Contract to the Department by March 25, 2017, and the Department shall make final payment by August 1, 2017. The Department shall deny all claims submitted after March 25, 2017. The Department may grant an exception in unusual circumstances on an individual basis. However, the Department shall allow a claim as a result of a subsequent audit approved by the Department that identified a Department error. The County may offset additional claims identified in an audit against audit exceptions up to the amount of the exception.

3.04 Total net reimbursement to the County for allowable expenses shall not exceed the Contracted amounts for programs specified in sections 2.0 and 9.0 of this Contract and the Final Allocation Worksheet (Exhibit 1) located on the internet at http://www.dhs.wisconsin.gov/sca/ as adjusted by the terms and conditions of the Contract appendices and addenda less any expenditures owed the Department under other Department and County Contracts including from previous Contracts. This setoff only applies to funds within a County agency and will not occur between County agencies.

3.05 The Department shall make payments to the County based upon the following schedule for programs covered in section 9.0 of this Contract:

- The Department may make payments on the fifth (5th) day of each month in an amount based on one-twelfth (1/12) of the total of section 9.01 or one month's estimated operating expenses to the County, except for federally funded MA profiles and direct reimbursement programs as outlined in the CARS Accounting Manual. Each month thereafter, the Department shall make a payment to the County for expenditures reported on the financial forms required by the Department attributable to each program under section 9.0 of this Contract.

- The County agrees to submit to the Department the financial forms specified in section 10.0 of this Contract on a monthly basis no later than the thirtieth (30th) day of the month subsequent to the reporting period. Based upon the reported expenditures, the Department shall make monthly payments by the fifth ($5^{th}$) day of the second month following the report date of the reported expenditures.

- Payments to the County shall not exceed the total Contract amount.

- The initial three (3) months of payments will be recouped during the last three (3) months of expense reporting, or when expenditures equal or exceed seventy-five percent (75%) of the profile line amount, whichever comes first, for the Contract period. A final cash adjustment will be done after reconciliation of the Contract amounts to actual final reported expenses.

3.06 The Department may adjust or delay the monthly payment if the County agency is not in compliance with this Contract under one of the conditions listed in this subsection. The Department shall provide thirty (30) calendar days advance notice to the County when an adjustment or delay is considered, and the Department will schedule a conference to resolve the issue that gave rise to notice before making the adjustment or delay and to negotiate the timing and payment schedule of any adjustments. The County may pursue its right to appeal the Department's decision as provided by section 6.0 of this Contract if both parties agree there is an impasse.

- The County does not give the Department the F-80600 report by the due date. If the Department caused the delay, this provision is waived. Should there be extenuating circumstances that prevent the County from sending a report, it is the responsibility of the County to see that the Department is properly notified prior to the due date of the report.

- The Department determines that the functions performed by the County do not meet State or federal statutes and requirements.

3.07 By March 14, 2017, the County will inform the Department that it will refund to the Department by April 30, 2017, any funds received pursuant to this Contract that are unspent or encumbered prior to January 1, 2017. If the County does not provide a refund check, the Department will adjust funds under section 3.04 as part of the Contract year reconciliation process.

3.08 Distribution and reporting of Agency Management Support and Overhead (AMSO) will be in accordance with the federally approved cost allocation plan for local organizational units.

County employee roster information will be provided to the Department in compliance with instructions from the Department for the Income Maintenance/Wisconsin Works (IM/W-2) Random Moment Sample (RMS).

Counties will report AMSO expenses and employee counts in accordance with instruction for the IM/W-2 RMS. The Department will distribute AMSO costs to the IM and W-2 programs as required by the federal cost allocation guidelines.

For Department programs other than IM, AMSO shall be distributed based on employee counts across programs administered by the County agency. Counties may use the AMSO expense and employee count information provided for the IM/W-2 RMS to calculate the AMSO costs to be reported monthly for social services programs, for programs that are part of the same County agency as the IM/W-2 programs.

3.09 Except as provided in section 11.01, the County agrees that the obligation of the Department under this Contract is limited by and contingent upon legislative authorization and budget appropriations including those made by the current Wis. Stat. ch. 20, and if, during the term of this Contract, the State appropriations that fund programs under this Contract are not made or are repealed or reduced by actions of the Legislature or otherwise, the Department's obligation to fund and the County's obligation to fund and provide such service programs under this Contract is suspended.

3.10 The County shall not at any time reallocate funds between lines of the Final Allocation Worksheet located on the internet at http://www.dhs.wisconsin.gov/sca/ unless specific written approval is received from the Department by March 1, 2016.

## 4.0 RECORDS

4.01 At least forty-five (45) calendar days prior to the effective date of any Department reporting or record keeping requirement issued after December 31, 2013, the Department shall provide the County with written notice of such a proposed reporting or record keeping requirement and allow the County an opportunity to review and comment on such a requirement. The County may comment on its own behalf or use a single point of contact to communicate its concerns. Reporting and record keeping requirements that are the result of changes in federal or State laws, rules and regulations, or any court actions may be implemented by the Department without strict compliance with the above-stated notice and comment requirements. However, the Department shall make every reasonable effort to solicit comments from the County prior to implementing such record keeping and reporting requirements.

4.02 Fiscal Records:

The County shall maintain such records, financial statements and necessary evidences of accounting procedures and practices sufficient to document the funding received and disbursements made under this Contract.

4.03 Client Reporting:

The County shall maintain such records, reports, evaluations, or other documents that are specified as needed by the Department for monitoring and auditing. Maintenance of such records, irrespective of the reporting requirements, is subject to the Financial Management Manual provisions allowing destruction of records.

The County shall furnish such reports and documents to the Department in the format and according to the schedules as the Department requires. These reports must be in compliance with Department reporting instructions.

The Department shall evaluate and monitor compliance with the reporting instructions.

4.04 All records maintained by the County pursuant to this Contract shall be available to the Department on request and with adequate notice for inspection, examination or audit. Except when the Department determines that unusual circumstances exist, the Department will give the County at least five (5) working days written notice unless the County consents to a shorter time frame.

4.05 The parties agree to comply with the applicable federal and State laws and Department regulations concerning confidentiality of client records.

4.06 Notwithstanding the above, nothing in this Contract shall be construed to limit, modify, or extinguish any federal or State agency's legal authority to inspect, audit, or have access to any records, financial statements or other reports maintained by the County; or to modify or limit the County's legal obligation to maintain any record or report required by State or federal statutes, rules, or regulations.

4.07 The Department shall monitor its requests for reports and evaluations to eliminate present and prevent future duplicate requests being sent to the County.

## 5.0 AUDITS/REVIEWS

5.01 The County shall submit an annual independent audit report to the Department. Unless waived by the Department, the sub-recipient (auditee) shall submit an annual audit to the Department if the total amount of annual funding provided by the Department (from any and all of its Divisions taken collectively) for all contracts is $25,000 or more. In determining the amount of annual funding provided by the Department, the sub-recipient shall consider both: (1) funds provided through direct contracts with the Department; and (2) funds from the Department, passed through another agency that has one or more contracts with the sub-recipient.

5.02 Audit Requirements: The audit shall be performed in accordance with generally accepted auditing standards, Wis. Stat. § 46.036, Government Auditing Standards as issued by the U.S. Government Accountability Office and other provisions as specified in this Contract. In addition, the sub-recipient is responsible for ensuring that the audit complies with other standards and guidelines that may be applicable depending on the type of services provided and the amount of pass-through dollars received. Please reference the following audit documents for complete Department audit requirements:

- 2 CFR, Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart F - Audits. The guidance also includes an Annual Compliance Supplement that details specific federal agency rules for accepting federal sub-awards.
- The State Single Audit Guidelines (SSAG) expand on the requirements of 2 CFR Part 200 Subpart F by identifying additional conditions that require a state single audit. Section 1.3 of the SSAG lists the required conditions.
- The DHS (Department of Health Services) Audit Guide is an appendix to the SSAG and contains additional Department-specific audit guidance for those entities to meet the SSAG requirements. It also provides guidance for those entities that are not required to have a Single Audit but need to comply with the Department's sub-recipient audit requirements. An audit report is due to the Department if a sub-recipient receives more than $25,000 in pass-through money from the Department, as determined by Wis. Stat. § 46.036.

5.03 Source of Funding: The Department shall provide funding information to all sub-recipients for audit purposes, including the name of the program, the federal agency where the program originated, the Catalog of Federal Domestic Assistance (CFDA) number, and the percentages of federal, State, and local funds constituting the Contract.

5.04 Audit Reporting Package: A sub-recipient that is required to have a Single Audit based on 2 CFR Part 200 Subpart F and SSAG is required to submit to the Department a reporting package that includes the following:

- General-Purpose Financial Statements of the overall agency and a Schedule of Expenditures of Federal and State Awards, including the independent auditor's opinion on the statements and schedule.
- Schedule of Findings and Questioned Costs, Schedule of Prior Audit Findings, Corrective Action Plan and the Management Letter (if issued).
- Report on Compliance and a Report on Internal Control over Financial Reporting based on an audit performed in accordance with Government Auditing Standards.
- Report on Compliance for each Major Program and a Report on Internal Control over Compliance.
- Report on Compliance with Requirements Applicable to the Federal and State Program and a Report on Internal Control over Compliance in Accordance with the Program-Specific Audit Option.

- *Settlement of DHS Cost Reimbursement Award. This schedule is required by the Department if the sub-recipient is a non-profit, for-profit, a governmental unit other than a tribe, County Chapter 51 board or school district; if the sub-recipient receives funding directly from the Department; if payment is based on or limited to an actual allowable cost basis; and if the auditee reported expenses or other activity resulting in payments totaling $100,000 or more for all of its grant(s) or contract(s) with the Department.
- *Reserve Supplemental Schedule is only required if the sub-recipient is a non-profit and paid on a prospectively set rate.
- *Allowable Profit Supplemental Schedule is only required if the sub-recipient is a for-profit entity.
- *Additional Supplemental Schedule(s) Required by Funding Agency may be required. Check with the funding agency.

*NOTE: These schedules are only required for certain types of entities or specific financial conditions.

For sub-recipients that do not meet the federal audit requirements of 2 CFR Part 200 and SSAG, the audit reporting package to the Department shall include all of the above items except for the fourth (4th) and fifth (5th) bullets in this subsection.

In limited situations, a sub-recipient may be allowed to have a program audit rather than an agency-wide audit. If applicable, please reference Section 1.3 of the SSAG, and Illustration 1.4 in the DHS Audit Guide to find the audit reporting package requirements for program audits.

5.05 Audit Due Date: Audits that comply with 2 CFR Part 200 and the SSAG are due to the granting agencies nine months from the end of the fiscal period or thirty (30) calendar days from completion of the audit, whichever is sooner. For all other audits, the due date is six (6) months from the end of the fiscal period unless a different date is specified within the contract or grant agreement.

5.06 Submitting Audit Reporting Package: The auditee or auditor must send a copy of the audit report to all granting agencies that provided funding to the auditee. Check the contract or contact the non-Department funding agencies for information on where to send the audit report and the proper submission format.

The Department no longer accepts paper copies of audit reports. Audit reports must be electronically-created pdf documents that are text searchable, unlocked, and unencrypted. To ensure that pdf files are unlocked and text-searchable, do not scan a physical copy of the audit report and do not change the default security settings in your pdf creator. The reports must be sent by either the auditee or auditor to DHSAuditors@Wisconsin.gov and a copy also sent to the auditor or auditee, respectively.

5.07 Access to Auditee's Records: The auditee must provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the required audit.

The auditee shall permit appropriate representatives of the Department to have access to the auditee's records and financial statements as necessary to review the auditee's compliance with federal and State requirements for the use of the funding. Having an independent audit does not limit the authority of the Department to conduct or arrange for other audits or review of federal or State programs. The Department shall use information from the audit to conduct their own reviews without duplication of the independent auditor's work.

5.08 Access to Auditor's Work Papers: The auditor shall make audit work papers available upon request to the auditee, the Department or their designee as part of performing a quality review, resolving audit findings, or carrying out oversight responsibilities. Access to working papers includes the right to obtain copies of working papers.

5.9 Failure to Comply with Audit Requirements: The Department may impose sanctions when needed to ensure that auditees have complied with the requirements to provide the Department with an audit that meets the applicable standards and to administer State and federal programs in accordance with the applicable requirements. Examples of situations when sanctions may be warranted include:

- The auditee did not have an audit.
- The auditee did not send the audit to the Department or another granting agency within the original or extended audit deadline.
- The auditor did not perform the audit in accordance with applicable standards, including the standards described in the SSAG.
- The audit reporting package is not complete; for example, the reporting package is missing the corrective action plan or other required elements.
- The auditee does not cooperate with the Department or another granting agency's audit resolution efforts; for example, the auditee does not take corrective action or does not repay disallowed costs to the granting agency.

5.10 Sanctions: The Department will choose sanctions that suit the particular circumstances and also promote compliance and/or corrective action. Possible sanctions may include:

- Requiring modified monitoring and/or reporting provisions;
- Delaying payments, withholding a percentage of payments, withholding or disallowing overhead costs, or suspending the award until the auditee is in compliance;
- Disallowing the cost of audits that do not meet these standards;
- Conducting an audit or arranging for an independent audit of the auditee and charging the cost of completing the audit to the auditee;
- Charging the auditee for all loss of federal or State aid or for penalties assessed to the Department because the auditee did not comply with the audit requirements;
- Assessing financial sanctions or penalties;
- Discontinuing contracting with the auditee; and/or
- Taking other action that the Department determines is necessary to protect federal or State pass-through funding.

5.11 Close-Out Audits: A contract specific audit of an accounting period of less than twelve (12) months is required when a contract is terminated for cause, when the auditee ceases operations or changes its accounting period (fiscal year). The purpose of the audit is to close-out the short accounting period. The required close-out contract specific audit may be waived by the Department upon written request from the sub-recipient, except when the contract is terminated for cause. The required close-out audit may not be waived when a contract is terminated for cause.

The auditee shall ensure that its auditor contacts the Department prior to beginning the audit. The Department, or its representative, shall have the opportunity to review the planned audit program, request additional compliance or internal control testing and attend any conference between the auditee and the auditor. Payment of increased audit costs, as a result of the additional testing requested by the Department, is the responsibility of the auditee.

The Department may require a close-out audit that meets the audit requirements specified in 2 CFR Part 200 Subpart F. In addition, the Department may require that the auditor annualize revenues and expenditures for the purposes of applying 2 CFR Part 200 Subpart F and determining major federal financial assistance programs. This information shall be disclosed in a note within the schedule of federal

awards. All other provisions in 2 CFR Part 200 Subpart F- Audit Requirements apply to close-out audits unless in conflict with the specific close-out audit requirements.

5.12 Department Reviews:

- The Department may conduct a financial and compliance review, in addition to the audit requirements within this subsection, if it determines that the review is in the best interest of the State. In the event that the Department conducts a review, it will include the examination of financial records maintained by the County. The review shall be conducted in accordance with the Department procedures. This review will NOT meet the requirements of the Single Audit Act for the County.

- In the event that the Department conducts a financial and compliance review, it will include the examination of financial records maintained by the County. The review shall be conducted in accordance with the Department procedures. This review will not meet the requirements of the Single Audit Act for the County.

- The Department shall schedule a mutually acceptable entrance date with the County with at least ten (10) working days' advance written notice.

- The Department agrees to provide the County with a copy of the resultant report, management letter, and supporting documentation upon completion of the financial and compliance review.

- The Department agrees to complete all draft reviews of the County within twenty-five (25) months of the expiration date of the Contract year to be reviewed. The time limit for submitting a draft review report to the County may be extended in unusual circumstances.

- If a multi-County agency has been audited and the audit meets the guidelines of the Department, the Department shall accept the multi-County agency audit in any review of a constituent County or counties of the multi-County agency.

- The Department reserves the right to conduct an independent financial and compliance review of the County agency if the County fails to secure a Single Audit covering all Department funds. In the event that the County fails to secure a Single Audit, the Department costs for completing a financial and compliance review will be charged back to the County.

- The Department may conduct an additional review if a County action not identified in the Single Audit results in the loss of federal funds. This additional Department review will determine if an audit exception is appropriate.

## 6.0 REVIEW AND REVISION

6.01 The County shall be entitled to an administrative review conducted pursuant to the procedures stated in this subsection that are in effect for this Contract if both of the following occur:

- The Department and the County disagree about the interpretation of any provision of this Contract; and
- The disagreement concerns one of the following:
    - Reconciliation of claims and reimbursements; review is through departmental conference;

- Any audit of the County as described in this Contract; review is through the audit resolution policy;
- Any audit resolution process; review is through the audit resolution policy; or
- Any federal audit of the County or the Department; review is through the Divisions Numbered Memos on federal audits.

6.02 If the Department and the County disagree about the interpretation of any provision of this Contract other than the disagreements described in section 6.01 of this Contract, and the County believes it is or will be injured by an action of the Department, the County shall be entitled to a hearing before the Department of Administration – Division of Hearings and Appeals, which must be requested within sixty (60) calendar days from the day the action in question occurred. The following procedures shall apply:

- The Department shall cooperate with the Department of Administration – Division of Hearings and Appeals to have a hearing scheduled within sixty (60) calendar days of receipt of the appeal request;
- Both the County and the Department shall be entitled to one thirty (30) calendar-day continuance of the hearing upon written notification to the other party and to the Division of Hearings and Appeals;
- The hearing shall be conducted as if it were a Class 3 case hearing under Wis. Stat. ch. 227. At the hearing, the parties may present evidence, call and cross-examine witnesses, and make arguments on the issues; and
- Either party may ask the Secretary of the Department to review the proposed decision within thirty (30) calendar days of its issuance. If neither party makes such a request within the thirty (30) calendar days, the proposed decision shall be final. If either party makes such a request within thirty (30) calendar days, the Secretary may allow both parties to file written arguments before a final decision is issued.

## 7.0 AFFIRMATIVE ACTION AND CIVIL RIGHTS COMPLIANCE

7.01 As required by Wisconsin's Contract Compliance Law under Wis. Stat. § 16.765 and Wis. Admin. Code ch. ADM 50, every grantee must agree to equal employment and affirmative action policies and practices in its employment programs. The grantee must submit an Affirmative Action Plan within fifteen (15) working days of returning the signed Contract. Exceptions exist, and are noted in the Instructions for Vendors. An electronic version of the Instructions for Vendors and all forms required are available at: http://vendornet.state.wi.us/vendornet/contract/contcom.asp. If the grantee requires a printed copy of these instructions, please submit a request to the Department's Affirmative Action Coordinator at DHSContractCompliance@dhs.wisconsin.gov.

Submit the Affirmative Action Plan or request for exemption to:

DHS/DES/BSS
AFFIRMATIVE ACTION COORDINATOR
1 W WILSON ST RM 655
PO BOX 7850
MADISON WI 53707-7850

**and** submit a pdf file to DHSContractCompliance@dhs.wisconsin.gov.

7.02 All primary recipients and sub-recipients of the Department must file a new Civil Rights Compliance Letter of Assurance (CRC LOA) for the compliance period of 2014-2017 regardless of the number of employees and the amount of funding received. Primary recipients and sub-recipients with fifty (50) or more employees AND who receive $50,000 in funding must complete a Civil Rights Compliance Plan (CRC Plan). **The CRC Plan should not be sent to the Department, but must be submitted upon request.**

**Note: If the County agency received a Grant Award from the Department for the 2014 and/or 2015 award cycles,** and a CRC Letter of Assurance (LOA) was submitted, and the County agency has an acknowledgement letter from the Department on file for the 2014-2017 Civil Rights Compliance cycle (January 1, 2014 – December 31, 2017), the County agency is compliant with the Department's CRC requirements. Therefore, the County agency has met the requirements and does not need to submit additional information at this time.

**Complete Instructions can be found at:** http://dhs.wisconsin.gov/civilrights/CRC/requirements.htm

**Send Letters of Assurance to:** DHSContractCompliance@dhs.wisconsin.gov

## 8.0 RECONCILIATION WITH COUNTY CLERK'S RECORDS

8.01 A reconciliation shall be performed at least quarterly between expenditures and revenues recorded at the County agency's office and those on the County clerks' accounts together with any journal entries that reconcile final balances. The reconciliation shall be documented and will be audited in the annual single audit.

## 9.0 HUMAN SERVICES PROGRAMS

9.01 Reconciliation of Human Services Programs:

- The terms in this section shall be defined as follows:
  - "Basic County Allocation" (BCA) means the budget category of the Department's Basic County Allocation.
  - "Categorical Programs" means one of the budget categories other than the Department's BCA.
- Human Services Programs listed in the Final Allocation Worksheet (Exhibit 1) located on the internet at http://www.dhs.wisconsin.gov/sca/ to this Contract are reconciled in accordance with the third (3rd) and fourth (4th) bullets in this subsection.
- The County shall earn monies for the County's actual expenditures for each categorical program up to the amount in the State Allocation Column for that categorical program. If the County expends more money for a categorical program than the amount for that program, the over-expenditure shall be treated as if it were an expenditure for the Department's BCA. Each Contract addendum will be treated as a categorical line for earning purposes with any required County match applied to the Department's BCA.
- All County match funds shall be used to earn State match funds on the Department's BCA Contract line.

- If the County spends the Department's BCA in an amount equal to or less than the amount stated on that line (DHS CARS 561) the County shall earn actual expenditures.

- If the County spends the Department's BCA in an amount greater than the amount stated on that line (DHS CARS 561), the County shall earn all of the the Department's BCA plus one-half of the remaining expenditures up to the amount on the State Match line (DHS CARS 681).

9.02 Carry-over of Community Aids Funds:

The County can carry over three percent (3%) of the total allocation of these funds that are unearned in the following categories:

The Department's BCA
State Match
Alzheimer's Family and Caregiver Support
Substance Abuse Prevention and Treatment Block Grant (SAPTBG)
Community Mental Health Services (MH) Block Grant
Adult Protective Services

SAPTBG and MH Block Grant funds carried over must be used for their original purpose. All other funds carried over will be added to the Department's BCA and can be used for any purpose during the next calendar year. However, the statutes prohibit the use of any carry-over funds for administrative or staff costs.

The County can carry over up to five percent (5%) of its Family Support Allocation that is unearned. These funds must be used for their original purpose but not for administrative or staff costs.

9.03 Federal Medicaid Funded Profiles Not Receiving Pre-Payments:

**Table 1: Profiles Funded with Medicaid Funding**

| Profile | Name | Contract Period |
|---|---|---|
| 283 | IMAA STATE SHARE | CY |
| 284 | IMAA FEDERAL SHARE | CY |
| 339 | COP-W FEDERAL | CY |
| 349 | CIP II FEDERAL | CY |
| 370 | CIPII COMM RELOCATE FED | CY |
| 376 | CIP II DIVERSIONS FED | CY |
| 393 | FCT - CIP II FED | CY |
| 408 | ICFMR FED | CY |
| 411 | FC TRANSITION CIP1B FED | CY |
| 563 | CIP 1B FEDERAL | CY |
| 581 | CIP 1A FEDERAL | CY |
| 1425 | MA COP LTS EXPANSION | CY |
| 1426 | MA COP LTS EXPANSION STRM | Jan - Jun |
| 65202 | Waiver Expansion Tribes | 6/1/14 - 6/30/15 |
| 65207 | CIP 1B FEDERAL REIM | CY |
| 65211 | COP WAIVER FEDERAL | CY |
| 65214 | CIP II FEDERAL | CY |

| | | |
|---|---|---|
| 65222 | CIP II-100%FMAPFORTRIBES | CY |
| 65223 | CIP 1-100%FMAPFORTRIBES | CY |
| 65402 | MEDICAID ELIG OUTREACH | FFY |
| 76305 | SAMS-IR ADRC | 10/1/14 - 6/30/15 |
| 81078 | MA CRISIS TRAINING-FED | SFY |
| 152042 | PRIMARY CARE (B) | CY |
| 157810 | HOTLINE | CY |
| 159320 | CONS CONTRACTS MCH | CY |
| 445461 | BC+ & BC+ CORE PLAN EXT | CY |
| 560051 | ADRC DBS PROGRAM ATTY FED | CY |
| 560304 | SAMS 2000 CDSD | FFY |

## 10.0 SOCIAL SERVICES AND COMMUNITY PROGRAMS REPORTS

| Form Number | Name | Due Date |
|---|---|---|
| F-80600 | Expenditure Report-Community Aids Reporting System | 30th of the month following the report month (See section 3.04), plus final on March 25, 2017 |
| F-20942 | Total Expense by Target Group Standard Program Cluster Report | April 30, 2017 |
| F-22540 | Human Services Revenue Report | April 30, 2017 |
| F-22018 | HSRS Long Term Support Module | By the last State working day of the month following the report month |

## 11.0 MISCELLANEOUS

11.01 Conditions on the Parties' Obligations:

This Contract is contingent upon authorization of Wisconsin and United States law and any material amendment or repeal of same affecting relevant funding to, or authority of. The Department shall serve to terminate this agreement except as further agreed by the parties hereto.

Nothing contained in this agreement shall be construed to supersede the lawful power or duties of either party.

11.02 It is understood and agreed that the entire Contract between the parties is contained herein, and includes appendices and addenda incorporated herein by reference. The Contract supersedes all previous commitments, promises, and representations, either oral or written between the parties relating to the subject matter hereof.

## 12.0 CERTIFICATION REGARDING LOBBYING

In conformance with federal law, the authorized County representative must review, sign and return with this Contract the Certification Regarding Lobbying form.

## 13.0 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

In conformance with federal law, the authorized County representative must review, sign and return with this Contract the Certification Regarding Debarment and Suspension form.

## 14.0 BUSINESS ASSOCIATION AGREEMENT

To comply with the requirements of HIPAA addressing confidentiality, security and the transmission of individually identifiable health information created, used or maintained by the Business Associate during the performance of the Contract and after Contract termination, the Business Associate must review, sign and return the Business Association Agreement.

STATE OF WISCONSIN
Department of Health Services

IN WITNESS WHEREOF, the Department and the County have executed this agreement as of the day and year first above written.

**Printed Name of County:** _____

_____
**Printed Name of County Representative**

_____ _____
**Signature** **Date**
County Executive, Board Chairperson,
or Designee (Authorization attached if Designee)

Thomas J. Engels 11/12/2015
**Signature** **Date**
Thomas J. Engels, Deputy Secretary
Department of Health Services

## 12.0 CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, 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 and not more than $100,000 for each such failure.

| | |
|---|---|
| _____ | _____ |
| (Signature of Official Authorized to Sign Application) | (Date) |
| _____ | _____ |
| (Print Name) | (Title) |
| _____ | _____ |
| (Agency / Contractor Name) | (Title of Program) |

## 13.0 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

1. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the Department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department or agency may terminate this transaction for cause or default.
3. The prospective primary participant shall provide immediate written notice to the Department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
5. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.
6. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” provided by the Department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department or agency may terminate this transaction for cause or default.

The undersigned (authorized official signing for the applicant organization) certifies to the best of his or her knowledge and belief that the applicant defined as the primary participant in accordance with 48 CFR Part 9, subpart 9.4 and its principles:

1. The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:

   a) are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal Department or agency;

   b) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offence in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement or receiving stolen property;

   c) are not presently indicated or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

   d) have not within a three-year period preceding this application/proposal had one or more public transaction (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Contract

| | |
|---|---|
| _____ | _____ |
| (Signature of Official Authorized to Sign Application) | (Date) |
| _____ | _____ |
| (Print Name) | (Title) |
| _____ | _____ |
| (Agency / Contractor Name) | (Title of Program) |

# BUSINESS ASSOCIATE AGREEMENT

**2016 State and _____ County Contract**

This Business Associate Agreement is made between the Wisconsin Department of Health Services, _____ ("Covered Entity"), and the _____ ("Business Associate"), collectively the "Parties."

This Agreement is specific to those services, activities, or functions performed by the Business Associate on behalf of the Covered Entity when such services, activities, or functions are covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), including all pertinent regulations (45 CFR Parts 160 and 164) issued by the U.S. Department of Health and Human Services.

Services, activities, or functions covered by this Agreement include, but are not limited to, Social Services, Community Program, and functions performed and services provided or purchased by the _____ as specified in the 1B2016 State and _____ County Contract.

## 1. DEFINITIONS

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific Definitions:

a. Business Associate: "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103 and, in reference to the party to this Agreement, shall mean _____.

b. Covered Entity: "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103 and, in reference to the party in this Agreement, shall mean the Wisconsin Department of Health Services.

c. HIPAA Rules: "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

## 2. RESPONSIBILITIES OF BUSINESS ASSOCIATE

a. Business Associate shall not use or disclose any Protected Health Information except as permitted or required by the Agreement, as permitted or required by law, or as otherwise authorized in writing by the Covered Entity, if done by the Covered Entity. Unless otherwise limited herein, Business Associate may use or disclose Protected Health Information for Business Associate's proper management and administrative services, to carry out legal responsibilities of Business Associate, and to provide data aggregation services relating to health care operations of the Covered Entity if required under the Agreement.

b. Business Associate shall not request, use, or disclose more than the minimum amount of Protected Health Information necessary to accomplish the purpose of the use or disclosure.

c. Business Associate shall inform the Covered Entity if it or its subcontractors will perform any work outside the U.S. that involves access to, or the disclosure of, Protected Health Information.

## 3. SAFEGUARDING AND SECURITY OF PROTECTED HEALTH INFORMATION

a. Business Associate shall use appropriate safeguards, including complying with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent use or disclosure of Protected Health Information other than as provided for by the Agreement.

b. Business Associate shall cooperate in good faith in response to any reasonable requests from the Covered Entity to discuss, review, inspect, and/or audit Business Associate's safeguards.

## 4. REPORTING OF A VIOLATION TO COVERED ENTITY BY BUSINESS ASSOCIATE

The Business Associate shall report to Covered Entity any use or disclosure of Protected Health Information not provided for by the Agreement of which it becomes aware, including breaches of unsecured Protected Health Information as required at 45 CFR 164.410 and any security incident.

a. **Discovery of a Violation**. The Business Associate must inform the Covered Entity by telephone call, plus email or fax, within the next business day following the discovery of any violation.

   i. The Violation shall be treated as "discovered" as of the first day on which the Violation is known to the Business Associate or, by exercising reasonable diligence would have been known to the Business Associate.
   ii. Notification shall be provided to one of the contact persons as listed in section 4.d.
   iii. Notification shall occur within the first business day that follows discovery of the Violation.

b. **Mitigation.** The Business Associate shall take immediate steps to mitigate any harmful effects of the unauthorized use, disclosure, or loss. The Business Associate shall reasonably cooperate with the Covered Entity's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such threatened or actual breach, or to recover its Protected Health Information, including complying with a reasonable Corrective Action Plan.

c. **Investigation of Breach**. The Business Associate shall immediately investigate the Violation and report in writing within <u>one week</u> to a contact listed in section 4.d. with the following information:

   i. Each Individual whose Protected Health Information has been or is reasonably to have been accessed, acquired, or disclosed during the Incident;
   ii. A description of the types of Protected Health Information that were involved in the Violation (such as full name, social security number, date of birth, home address, account number);
   iii. A description of unauthorized persons known or reasonably believed to have improperly used or disclosed Protected Health Information or confidential data;
   iv. A description of where the Protected Health Information or confidential data is believed to have been improperly transmitted, sent, or utilized;
   v. A description of probable causes of the improper use or disclosure;
   vi. A brief description of what the Business Associate is doing to investigate the Incident, to mitigate losses, and to protect against further Violations;
   vii. The actions the Business Associate has undertaken or will undertake to mitigate any harmful effect of the occurrence; and
   viii. A Corrective Action Plan that includes the steps the Business Associate has taken or shall take to prevent future similar Violations.

d. **Covered Entity Contact Information.** To direct communications to above-referenced Covered Entity's staff, the Business Associate shall initiate contact as indicated herein. The Covered Entity reserves the right to make changes to the contact information by giving written notice to the Business Associate.

| Covered Entity Program Manager: | DHS Privacy Officer | DHS Security Officer |
|---|---|---|
| _____ | c/o Office of Legal Counsel | Department of Health Services |
| _____ | Department of Health Services | 1 W. Wilson Street |
| _____ | 1 W. Wilson Street | Madison, WI 53707 |
| _____ | Madison, WI 53707 | 608-261-8310 |
| | 608-266-5484 | |

## 5. USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION BY SUBCONTRACTORS OF THE BUSINESS ASSOCIATE

In accordance with 45 CFR 164.502(e)(1) and 164.308(b), if applicable, the Business Associate shall ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with

respect to such information.

**6. COMPLIANCE WITH ELECTRONIC TRANSACTIONS AND CODE SET STANDARDS**

If the Business Associate conducts any Standard Transaction for, or on behalf of, a Covered Entity, the Business Associate shall comply, and shall require any subcontractor or agent conducting such Standard Transaction to comply, with each applicable requirement of Title 45, Part 162, of the Code of Federal Regulation. The Business Associate shall not enter into, or permit its subcontractors or agents to enter into, any Agreement in connection with the conduct of Standard Transactions for, or on behalf of, Covered Entity that:

a. Changes the definition, Health Information condition, or use of a Health Information element or segment in a Standard;
b. Adds any Health Information elements or segments to the maximum defined Health Information Set;
c. Uses any code or Health Information elements that are either marked “not used” in the Standard’s Implementation Specification(s) or are not in the Standard’s Implementation Specifications(s); or
d. Changes the meaning or intent of the Standard’s Implementations Specification(s).

**7. ACCESS TO PROTECTED HEALTH INFORMATION**

At the direction of the Covered Entity, the Business Associate agrees to provide access, in accordance with 45 CFR 164.524, to any Protected Health Information held by the Business Associate, which Covered Entity has determined to be part of Covered Entity’s Designated Record Set, in the time and manner designated by the Covered Entity. This access will be provided to Covered Entity, or (as directed by Covered Entity) to an Individual, in order to meet requirements under the Privacy Rule.

**8. AMENDMENT OR CORRECTION TO PROTECTED HEALTH INFORMATION**

At the direction of the Covered Entity, the Business Associate agrees to amend or correct Protected Health Information held by the Business Associate, which the Covered Entity has determined is part of the Covered Entity’s Designated Record Set, in the time and manner designated by the Covered Entity in accordance with 45 CFR 164.526.

**9. DOCUMENTATION OF DISCLOSURES OF PROTECTED HEALTH INFORMATION BY THE BUSINESS ASSOCIATE**

The Business Associate agrees to document and make available to the Covered Entity, or (at the direction of the Covered Entity) to an Individual, such disclosures of Protected Health Information to respond to a proper request by the Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

**10. INTERNAL PRACTICES**

The Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of Protected Health Information available to the Covered Entity, or to the federal Secretary of Health and Human Services (HHS) in a time and manner determined by the Covered Entity or the HHS Secretary, or designee, for purposes of determining compliance with the requirements of HIPAA.

**11. TERM AND TERMINATION OF AGREEMENT**

a. The Business Associate agrees that if in good faith the Covered Entity determines that the Business Associate has materially breached any of its obligations under this Agreement, the Covered Entity may:

    i. Exercise any of its rights to reports, access, and inspection under this Agreement;
    ii. Require the Business Associate within a 30-day period to cure the breach or end the violation;
    iii. Terminate this Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity;
    iv. Immediately terminate this Agreement if the Business Associate has breached a material term of this Agreement and cure is not possible.

b. Before exercising either 11.ii. or 11.iii, the Covered Entity will provide written notice of preliminary determination to

the Business Associate describing the violation and the action the Covered Entity intends to take.

## 12. RETURN OR DESTRUCTION OF PROTECTED HEALTH INFORMATION

Upon termination, cancellation, expiration, or other conclusion of this Agreement, the Business Associate will:

a. Return to the Covered Entity or, if return is not feasible, destroy all Protected Health Information and any compilation of Protected Health Information in any media or form. The Business Associate agrees to ensure that this provision also applies to Protected Health Information of the Covered Entity in possession of subcontractors and agents of the Business Associate. The Business Associate agrees that any original record or copy of Protected Health Information in any media is included in and covered by this provision, as well as all originals or copies of Protected Health Information provided to subcontractors or agents of the Business Associate. The Business Associate agrees to complete the return or destruction as promptly as possible, but not more than **30** business days after the conclusion of this Agreement. The Business Associate will provide written documentation evidencing that return or destruction of all Protected Health Information has been completed.

b. If the Business Associate destroys Protected Health Information, it shall be done with the use of technology or methodology that renders the Protected Health Information unusable, unreadable, or undecipherable to unauthorized individuals as specified by HHS in HHS guidance. Acceptable methods for destroying Protected Health Information include:

   i. For paper, film, or other hard copy media: shredding or destroying in order that Protected Health Information cannot be read or reconstructed and
   ii. For electronic media: clearing, purging, or destroying consistent with the standards of the National Institute of Standards and Technology (NIST).

   Redaction is specifically excluded as a method of destruction of Protected Health Information unless the information is properly redacted so as to be fully de-identified.

c. If the Business Associate believes that the return or destruction of Protected Health Information is not feasible, the Business Associate shall provide written notification of the conditions that make return or destruction not feasible. If the Business Associate and Covered Entity agree that return or destruction of Protected Health Information is not feasible, the Business Associate shall extend the protections of this Agreement to Protected Health Information and prohibit further uses or disclosures of the Protected Health Information of the Covered Entity without the express written authorization of the Covered Entity. Subsequent use or disclosure of any Protected Health Information subject to this provision will be limited to the use or disclosure that makes return or destruction not feasible.

## 13. COMPLIANCE WITH STATE LAW

The Business Associate acknowledges that Protected Health Information from the Covered Entity may be subject to state confidentiality laws. Business Associate shall comply with the more restrictive protection requirements between state and federal law for the protection of Protected Health Information.

## 14. MISCELLANEOUS PROVISIONS

a. Indemnification for Breach. Business Associate shall, to the extent allowed by Wisconsin law, indemnify the Covered Entity for costs associated with any Incident arising from the acquisition, access, use, or disclosure of Protected Health Information by the Business Associate in a manner not permitted under HIPAA Rules.

b. Automatic Amendment. This Agreement shall automatically incorporate any change or modification of applicable state or federal law as of the effective date of the change or modification. The Business Associate agrees to maintain compliance with all changes or modifications to applicable state or federal law.

c. Interpretation of Terms or Conditions of Agreement. Any ambiguity in this Agreement shall be construed and resolved in favor of a meaning that permits the Covered Entity and Business Associate to comply with applicable state and federal law.

d. Survival. All terms of this Agreement that by their language or nature would survive the termination or other

**IN WITNESS WHEREOF**, the undersigned have caused this Agreement to be duly executed by their respective representatives.

| COVERED ENTITY | | BUSINESS ASSOCIATE | |
|---|---|---|---|
| Print Name: | Thomas J. Engels | Print Name: | |
| **SIGNATURE:** | | **SIGNATURE:** | |
| Title: | Deputy Secretary, Wisconsin Department of Health Services | Title: | |
| Date: | | Date: | |