

STATE OF SOUTH DAKOTA
DEPARTMENT OF SOCIAL SERVICES
700 GOVERNORS DRIVE
PIERRE, SD 57501

Family Time & Transportation (Sioux Falls)
PROPOSALS ARE DUE NO LATER THAN March 19th, 2025, BY 5PM CST

RFP13428 State POC: Kirsten Blachford EMAIL: Kirsten.Blachford@state.sd.us

READ CAREFULLY

FIRM NAME: _____ AUTHORIZED SIGNATURE: _____

ADDRESS: _____ TYPE OR PRINT NAME: _____

CITY/STATE: _____ TELEPHONE NO: _____

ZIP (9 DIGIT): _____ FAX NO: _____

E-MAIL: _____

PRIMARY CONTACT INFORMATION

CONTACT NAME: _____ TELEPHONE NO: _____

FAX NO: _____ E-MAIL: _____

1.0 GENERAL INFORMATION

1.1 **PURPOSE OF REQUEST FOR PROPOSAL (RFP)**

The purpose of this request is to elicit proposals for the provision of supervised family time services in a family-friendly setting in Sioux Falls, South Dakota, for families whose child(ren) or relative has been removed from their home and placed in the custody of Child Protection Services (CPS). Family Time is completed to facilitate reunification and maintain connections. Submissions should also include the provision of supervised transportation for children and their families to and from the family time service, and to and from appointments as referred by CPS, within the Sioux Falls area.

1.2 **ISSUING OFFICE AND RFP REFERENCE NUMBER**

The Division of Child Protection Services is the issuing office for this document and all subsequent addenda relating to it, on behalf of the State of South Dakota, Department of Social Services. The reference number for the transaction is RFP13428. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

1.3 **LETTER OF INTENT**

All interested offerors are requested to submit a non-binding Letter of Intent to respond to this RFP. While preferred, a Letter of Intent is not mandatory to submit a proposal.

Be sure to reference the RFP number in your letter.

The Letter of Intent may be submitted to Kirsten Blachford via email at Kirsten.Blachford@state.sd.us no later than February 25th, 2025. Please place the following in the subject line of your email: Letter of Intent for RFP13428.

1.4 **SCHEDULE OF ACTIVITIES (SUBJECT TO CHANGE)**

RFP Publication	<u>02/11/2025</u>
Letter of Intent to Respond Due	<u>02/25/2025</u>
Offeror Questions Due	<u>03/04/2025</u>
Responses to Offeror Questions	<u>03/11/2025</u>
Request for SFTP folder	<u>03/18/2025</u>
Proposal Submission	<u>03/19/2025</u>
Deadline for Completion of Site Visits (if required)	<u>TBD</u>
Proposal Revisions (if required)	<u>TBD</u>
Anticipated Award Decision/Contract Negotiation	<u>04/15/2025</u>

1.5 **SUBMITTING YOUR PROPOSAL**

All proposals must be completed and received in the Department of Social Services by the date and time indicated in the Schedule of Activities.

Proposals received after the deadline will be late and ineligible for consideration.

Proposals must be submitted as PDFs via Secured File Transfer Protocol (SFTP). Offerors must request an SFTP folder no later than the date indicated in the Schedule of Activities by emailing Kirsten Blachford at Kirsten.Blachford@state.sd.us.

The subject line should read RFP13428 SFTP Request. The email should contain the name and the email of the person who will be responsible for uploading the document(s).

Please note, offeror will need to work with their own technical support staff to set up an SFTP compatible software on offeror's end. While the State of South Dakota can answer questions, State of South Dakota is not responsible for the software required.

All proposals must be signed, in ink, by an officer of the responder, legally authorized to bind the responder to the proposal, and sealed in the form intended by the respondent. Proposals that are not properly signed may be rejected.

No proposal shall be accepted from, or no contract or purchase order shall be awarded to any person, firm or corporation that is in arrears upon any obligations to the State of South Dakota, or that otherwise may be deemed irresponsible or unreliable by the State of South Dakota.

1.6 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

By signing and submitting this proposal, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving the use of Federal funds. Where the offeror is unable to certify to any of the statements in this certification, the bidder shall attach an explanation to their offer.

1.7 NON-DISCRIMINATION STATEMENT

The State of South Dakota requires that all contractors, vendors, and suppliers doing business with any State agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the offeror certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin or disability.

1.8 CERTIFICATION RELATING TO PROHIBITED ENTITY

For contractors, vendors, suppliers, or subcontractors who enter into a contract with the State of South Dakota by submitting a response to this solicitation or agreeing to contract with the State, the bidder or offeror certifies and agrees that the following information is correct:

The bidder or offeror, in preparing its response or offer or in considering proposals submitted from qualified, potential vendors, suppliers, and subcontractors, or in the solicitation, selection, or commercial treatment of any vendor, supplier, or subcontractor, is not an entity, regardless of its principal place of business, that is ultimately owned or controlled, directly or indirectly, by a foreign national, a foreign parent entity, or foreign government from China, Iran, North Korea, Russia, Cuba, or Venezuela, as defined by SDCL 5-18A. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid or response submitted by the bidder or offeror on this project and terminate any contract awarded based on the bid or response. The successful bidder or offeror further agrees to provide immediate written notice to the contracting executive branch agency if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

1.9 RESTRICTION OF BOYCOTT OF ISRAEL

For contractors, vendors, suppliers, or subcontractors with five (5) or more employees who enter into a contract with the State of South Dakota that involves the expenditure of one hundred thousand dollars (\$100,000) or more, by submitting a response to this solicitation or agreeing to contract with the State, the bidder or offeror certifies and agrees that the following information is correct:

The bidder or offeror, in preparing its response or offer or in considering proposals submitted from qualified, potential vendors, suppliers, and subcontractors, or in the solicitation, selection, or commercial treatment of any vendor, supplier, or subcontractor, has not refused to transact business activities, has not terminated business activities, and has not taken other similar actions intended to limit its commercial relations, related to the subject matter of the bid or offer, with a person or entity on the basis of Israeli national origin, or residence or incorporation in Israel or its territories, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid or response submitted by the bidder or offeror on this project and terminate any contract awarded based on the bid or response. The successful bidder or offeror further agrees to provide immediate written notice to the contracting executive branch agency if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

1.10 CERTIFICATION OF NO STATE LEGISLATOR INTEREST

Offeror (i) understands neither a state legislator nor a business in which a state legislator has an ownership interest may be directly or indirectly interested in any contract with the State that was

authorized by any law passed during the term for which that legislator was elected, or within one year thereafter, and (ii) has read South Dakota Constitution Article 3, Section 12 and has had the opportunity to seek independent legal advice on the applicability of that provision to any Agreement entered into as a result of this RFP. By signing an Agreement pursuant to this RFP, Offeror hereby certifies that the Agreement is not made in violation of the South Dakota Constitution Article 3, Section 12.

1.11 MODIFICATION OR WITHDRAWAL OF PROPOSALS

Proposals may be modified or withdrawn by the offeror prior to the established due date and time.

No oral, telephonic, telegraphic, or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

1.12 OFFEROR INQUIRIES

Offerors may email inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time indicated in the Schedule of Activities. Inquiries must be emailed to Kirsten Blachford at Kirsten.Blachford@state.sd.us with the subject line RFP13428.

The State will respond to offeror's inquiries (if required) via e-mail. In addition, all inquiries and the State's response will be posted on the state's e-procurement system and the DSS website at <https://dss.sd.gov/keyresources/rfp.aspx>. Offerors may not rely on any other statements, either of a written or oral nature, that alter any specification or other term or condition of this RFP. Offerors will be notified in the same manner as indicated above regarding any modifications to this RFP.

1.13 PROPRIETARY INFORMATION

The proposal of the successful offeror(s) becomes public information.

Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. An entire proposal may not be marked as proprietary. Offerors must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the State. All materials submitted become the property of the State of South Dakota and may be returned only at the State's option.

Offerors may submit a redacted copy of their proposal when they respond though this is optional.

1.14 LENGTH OF CONTRACT

The contract resulting from this RFP will be issued for the period of one (1) year ending May 31, 2025, with the option for renewal for up to three (3), one (1) year contracts at the discretion of the State based on performance and/or the continued availability of funds. Contracts will be negotiated on an annual basis.

1.15 GOVERNING LAW

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in the State of South Dakota. The laws of South Dakota shall govern this transaction.

1.16 DISCUSSIONS WITH OFFERORS (ORAL PRESENTATION/NEGOTIATIONS)

An oral presentation by an offeror to clarify a proposal may be required at the sole discretion of the State. However, the State may award a contract based on the initial proposals received without discussion with the Offeror. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the offeror's expense.

This process is a Request for Proposal/Competitive Negotiation process. Each Proposal shall be evaluated, and each respondent shall be available for negotiation meetings at the State's request. The State reserves the right to negotiate on any and/or all components of every proposal submitted. From the time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

2.0 STANDARD CONTRACT TERMS AND CONDITIONS

Any contract or agreement resulting from this RFP will include the State's standard terms and conditions as listed below and as seen in **Attachment A and B**, along with any additional terms and conditions that may be necessary to the performance of the scope of work.

- 2.1** The Contractor will perform those services described in the Scope of Work, attached hereto as Section 3 of the RFP and by this reference incorporated herein.
- 2.2** The Contractor's services under this Agreement shall commence on ____ and end on ____, unless sooner terminated pursuant to the terms hereof.
- 2.3** The Contractor will use State equipment, supplies or facilities. YES () NO (X)
- 2.4** The Contractor will provide the State with its Employer Identification Number, Federal Tax Identification Number or Social Security Number upon execution of this Agreement.
- 2.5** The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$ _____. The State will not pay Contractor's expenses as a separate item. Payment will be made pursuant to itemized invoices submitted with a signed state voucher. Payment will be made consistent with SDCL ch. 5-26.
- 2.6** The Contractor agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Contractor to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.
- 2.7** The Contractor, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:
- A. Commercial General Liability Insurance:**
The Contractor shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit.
 - B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance:**
The Contractor agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than \$1,000,000.00.
 - C. Business Automobile Liability Insurance:**
The Contractor shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.
 - D. Worker's Compensation Insurance:**
The Contractor shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, Contractor shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement. In the event a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Contractor agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Contractor shall furnish copies of insurance policies if requested by the State.

- 2.8** While performing services hereunder, the Contractor is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

2.9 Contractor agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Contractor or the State to liability. Contractor shall report any such event to the State immediately upon discovery.

Contractor's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Contractor's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Contractor to report any event to law enforcement or other entities under the requirements of any applicable law.

2.10 This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Contractor breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Contractor at the time of termination may be adjusted to cover any additional costs to the State because of Contractor's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Contractor it is determined that Contractor was not at fault, then the Contractor shall be paid for eligible services rendered and expenses incurred up to the date of termination.

2.11 This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

2.12 This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof and be signed by an authorized representative of each of the parties hereto.

2.13 This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

2.14 The Contractor will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

2.15 The Contractor may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Contractor will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Contractor will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

2.16 Contractor hereby acknowledges and agrees that all reports, plans, specifications, technical data, miscellaneous drawings, software system programs and documentation, procedures, or files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, and all information contained therein provided to the State by the Contractor in connection with its performance of services under this Agreement shall belong to and is the property of the State and will not be used in any way by the Contractor without the written consent of the State. Papers, reports, forms, software programs, source code(s) and other material which are a part of the work under this Agreement will not be copyrighted without written approval of the State.

2.17 The Contractor certifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment or suspension, or declared ineligible from participating in

transactions by the federal government or any state or local government department or agency. Contractor further agrees that it will immediately notify the State if during the term of this Agreement Contractor or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.

- 2.18** Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to _____ on behalf of the State, and by _____, on behalf of the Contractor, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.
- 2.19** In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.
- 2.20** All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

3.0 SCOPE OF WORK

The Department of Social Services vision is Strong Families – South Dakota’s Foundation and Our Future. The purpose of the Division of Child Protection Services is to assure children’s safety, permanency, and well-being. The goal of Child Protection Services is to maintain children’s safety in their homes and when not possible, children may need either a temporary or permanent alternative family setting. Child Protection Services believes that children should remain with their families whenever possible.

Family time or supervised family visitation is essential for healthy child development, especially for children in foster care, as it helps to maintain parent-child attachment, reduce a child’s sense of abandonment, and preserve a sense of belonging as part of a family and community. A Family Time Plan is developed for children in foster care and ensures frequent and quality interactions. Family time includes face to face contact, telephone calls, virtual family time, letters, emails, and attendance at routine activities. By offering a setting for supervised family time, families are able to maintain regular contact, which helps strengthen the bonds between them as they work towards reunification. Family time is most beneficial in various settings outside of a facility, such as family homes, parks, or other familiar environments, whenever it is safe and feasible. Child Protection Services must ensure that the well-being and safety needs of the children in our care are met.

The Sioux Falls office of Child Protection Services provides family time to almost 500 children each month. Due to limitations in staffing and physical resources, there is a need for additional support through supervised family time for families. Additionally, there is a need for transportation to and from supervised family time, as well as to various appointments to meet their educational, medical, or mental health needs. At times, parents also need transportation to family time or appointments.

Child Protection Services is seeking a Provider that can provide services in two areas: Transportation and Family Time. In State Fiscal Year 2024, the current vendor supervised approximately 850 family visits for an average of 27 families per month. Transportation was provided to approximately 700 visitations or appointments, with a total of 16,285 miles traveled. These services were in addition to the family time and transportation services provided to families by the Division of Child Protection Services outside of the contract.

- 3.1** Supervised Family Time: The Offeror will provide a child and family-friendly location for family time services between families and children referred by Child Protection Services.
- 3.1.1** Provide a clean, safe, and secure setting for children of all ages to have supervised family time;
 - 3.1.2** Provide a setting that will meet the American Disability Act standards.
 - 3.1.3** Provide for more than one family time service to occur simultaneously;
 - 3.1.4** Provide audio/ visual recordings of the family time services for the agency;
 - 3.1.5** Provide for the ability for observation of the family time services by Offeror or CPS staff;

- 3.1.6 Provide a low to moderate level of supervision in a comfortable, family-like setting for parents or relatives who have demonstrated the ability to consistently maintain control and can be monitored with limited to moderate supervision.
 - 3.1.7 Provide a more restrictive, high level of supervision as needed, for parents who have been identified to have impending danger threats that are unpredictable or volatile and exhibit one or more of the following:
 - The parent/caregiver may behave in an inappropriate, threatening, unpredictable way.
 - There is concern that the parent/caregiver will flee with the child(ren).
 - The parent/caregiver may be physically or emotionally abusive to the child(ren) during the family time.
 - The child(ren) is extremely fearful of the parent/caregiver.
 - 3.1.8 Provide flexible scheduling of family time services for the agency that can occur outside the course of a normal business day, to include evenings and weekends.
- 3.2 The Offeror will provide staff to supervise the family time between the children and family members.
- 3.2.1 Ensure employees have criminal background checks and Central Registry checks completed before working for the family visitation center;
 - 3.2.2 Ensure that employees will be provided with training about child development, family dynamics, and maltreatment of children;
 - 3.2.3 Ensure that employees will be able to determine when a family time service is detrimental and be able to comply with expectations of the Division of Child Protection Services in providing family time services that are safe for the child and in reported suspected abuse or neglect;
 - 3.2.4 Ensure that employees will maintain confidentiality;
 - 3.2.5 Provide technology for employees to communicate with Child Protection Services, both verbally and in writing.
- 3.3 Transportation Service: The Offeror will provide transportation services for parents and children referred by Child Protection Services.
- 3.3.1 Provide vehicles in good repair for transportation with appropriate child safety restraints;
 - 3.3.2 Provide flexible scheduling of transportation services for the agency that can occur outside the course of a normal business day, to include evenings and weekends.
 - 3.3.3 Ensure employees have criminal background checks and Central Registry checks completed before working for the family visitation center;
 - 3.3.4 Comply with child safety restraint requirements, both as outlined in the South Dakota Codified Law 32-37 and by the Division of Child Protection Services;
 - 3.3.5 Provide transportation employees training to use child restraint systems correctly;
 - 3.3.6 Ensure transportation employees have met legal requirements to drive within South Dakota and that the employees will provide an environment that is safe for the children and families referred by the Division of Child Protection Services;
 - 3.3.7 Provide insurance for the vehicles and other insurance as required.
- 3.4 Payment for Supervised Visitation and Transportation Services
- 3.4.1 The Offeror must provide proposed rates for mileage, transportation time and for supervised family time.
 - 3.4.2 The Offer will describe the system the Offeror will use to document services in order to provide a monthly billing to Child Protection Services, while assuring the mileage, and time for each transportation and family time service is documented separately with the name of the family and the name of the Division of Child Protection Services staff.
- 3.5 Program Responsibilities: The Offeror must provide assurances of the following program responsibilities and expectations in the proposal:
- 3.5.1 Confidentiality of Child Protection Services information.
 - 3.5.2 Financial management, including management of multiple funding sources, separate from all other agency funding - an outside accounting firm may be used to meet this requirement.
 - 3.5.3 Allow Child Protection Services to review all financial records related to the contract upon request.

- 3.5.4 Sound personnel and administrative policies and practices are in place for employees that include an employee manual addressing policies such as sick and annual leave, work adjust hours, overtime, employee review process and expense reimbursement requests.
 - 3.5.5 Each employee is aware of mandatory child abuse and neglect reporting requirements;
 - 3.5.6 Communicate with Child Protection Services on an ongoing basis regarding any concerns regarding the services required under the contract.
 - 3.5.7 Provide Child Protection Services with drafts of press releases, reports, brochures, and other materials related to the contract for approval.
 - 3.5.8 Give credit to Child Protection Services for its funding support on all press releases, reports, brochures, and other materials related to the contract.
 - 3.5.9 Provide telephone service, voice messaging service, email access, internet access, and a general agency email address.
- 3.6 The Offeror will describe how they meet or exceed the following organization qualities and characteristics:
- 3.6.1 A history of providing high quality training and consultation at the community level.
 - 3.6.2 Demonstrated experience in collaboration and partnership with DSS.
 - 3.6.3 Demonstrated leadership capability to develop services in collaboration with DSS and/or other provider agencies as well as evaluate services provided as the needs of the State continue to change.
 - 3.6.4 A strong commitment to address cultural diversity.
 - 3.6.5 A history of demonstrated effectiveness in subcontract management and/or lead agency coordination of multiple providers and ability to provide stability for these projects. As well as a description of how challenging issues were addressed within those subcontracts; and
 - 3.6.6 A description of resources, both personnel and non-personnel required to perform all activities of the RFP.

4.0 PROPOSAL REQUIREMENTS AND COMPANY QUALIFICATIONS

- 4.1 The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories and that the State of South Dakota is under no obligation to solicit such information if it is not included with the proposal. The offeror's failure to submit such information may cause an adverse impact on the evaluation of the proposal.
- 4.2 **Offeror's Contacts:** Offerors and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the evaluation, etc. to the buyer of record indicated on the first page of this RFP. Offerors and their agents may not contact any state employee other than the buyer of record regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements. Offerors and their agents who have questions regarding this matter should contact the buyer of record.
- 4.3 Provide the following information related to at least three previous and current service/contracts, performed by the offeror's organization, which are similar to the requirements of this RFP.
 - 4.3.1 Name, address and telephone number of client/contracting agency and a representative of that agency who may be contacted for verification of all information submitted;
 - 4.3.2 Dates of the service/contract; and
 - 4.3.3 A brief, written description of the specific prior services performed and requirements thereof.
- 4.4 The offeror may be required to submit a copy of their most recent independently audited financial statements.
- 4.5 If an offerors proposal is not accepted by the State, the proposal will not be reviewed/evaluated. Examples include: Proposal was not received on time. Proposal was not signed. Electronic file was not provided.

5.0 PROPOSAL RESPONSE FORMAT

- 5.1 Only a PDF copy shall be submitted via SFTP folder.
 - 5.1.1 The proposal should be page numbered and should have an index and/or a table of contents referencing the appropriate page number.
- 5.2 All proposals must be organized and tabbed with labels for the following headings:
 - 5.2.1 **RFP Form.** The State's Request for Proposal form (1st page of RFP) completed and signed.
 - 5.2.2 **Executive Summary.** The one-to-two-page executive summary is to briefly describe the offeror's proposal. This summary should highlight the major features of the proposal. It must indicate any requirements that cannot be met by the offeror. The reader should be able to determine the essence of the proposal by reading the executive summary. Proprietary information requests should be identified in this section.
 - 5.2.3 **Detailed Response.** This section should constitute the major portion of the proposal and must contain at least the following information:
 - 5.2.3.1 A complete narrative of the offeror's assessment of the work to be performed, the offeror's ability and approach, and the resources necessary to fulfill the requirements. This should demonstrate the offeror's understanding of the desired overall performance expectations.
 - 5.2.3.2 A specific point-by-point response, in the order listed, to each requirement in the RFP. The response should identify each requirement being addressed as enumerated in the RFP.
 - 5.2.3.3 A clear description of any options or alternatives proposed.
 - 5.2.4 **Cost Proposal.** Cost will be evaluated independently from the technical proposal. Offerors may submit multiple cost proposals. All costs related to the provision of the required services must be included in each cost proposal offered.

See section 7.0 for more information related to the cost proposal.

6.0 PROPOSAL EVALUATION AND AWARD PROCESS

- 6.1 After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposal by considering each of the following criteria:
 - 6.1.1 Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements;
 - 6.1.2 Resources available to perform the work, including any specialized services, within the specified time limits for the project;
 - 6.1.3 Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration;
 - 6.1.4 Availability to the project locale;
 - 6.1.5 Familiarity with the project locale;
 - 6.1.6 Proposed project management techniques; and
 - 6.1.7 Ability and proven history in handling special project constraints;

6.1.8 Cost proposal.

- 6.2** Experience and reliability of the offeror's organization are considered subjectively in the evaluation process. Therefore, the offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP.
- 6.3** The qualifications of the personnel proposed by the offeror to perform the requirements of this RFP, whether from the offeror's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.
- 6.4** The State reserves the right to reject any or all proposals, waive technicalities, and make award(s) as deemed to be in the best interest of the State of South Dakota.
- 6.5 Award:** The requesting agency and the highest ranked offeror shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including compensation and performance schedule.
- 6.5.1** If the agency and the highest ranked offeror are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, either orally or in writing, terminate negotiations with the contractor. The agency may then negotiate with the next highest ranked contractor.
 - 6.5.2** The negotiation process may continue through successive offerors, according to agency ranking, until an agreement is reached, or the agency terminates the contracting process.
 - 6.5.3** Only the response of the vendor awarded work becomes public. Responses to work orders for vendors not selected and the evaluation criteria and scoring for all proposals are not public. Vendors may submit a redacted copy with the full proposal as stated in Section 1.12 Proprietary Information. SDCL 1-27-1.5 and See SDCL 1-27-1.5 and 1-27-1.6

7.0 COST PROPOSAL

The Offeror must submit **Attachment C – Cost Proposal Spreadsheet** with the proposal for the allocation of various expenses associated with the providing services to the State within the scope of their proposal. This proposal must include all cost associated with employee salaries and benefits, for direct and indirect care staff, insurance vehicle costs, facility rent/lease/maintenance cost, office supply cost, utilities, professional fees and contract services and any other expenses that are deemed necessary to perform the services outlined in this proposal (see Attachment C – Cost Proposal Spreadsheet).

The submitted cost report used to establish rates shall remain in effect throughout the contract period. The reimbursement rate may be adjusted by any inflationary increases provided by the Legislature. If for any reason the appropriate funds or grant expenditure authority becomes unavailable to the Division of Child Protection Services, discontinuation of funding will not be a default by the State, nor does it give rise to claim against the state.

**STATE OF SOUTH DAKOTA
DEPARTMENT OF SOCIAL SERVICES
DIVISION OF CHILD PROTECTION**

**Purchase of Services Agreement
For Provider Services
Between**

State of South Dakota
Department of Social Services
DIVISION OF CHILD PROTECTION
700 Governors Drive
Pierre, SD 57501-2291

Referred to as Provider

Referred to as State

The State hereby enters into a contract (the "Agreement" hereinafter) for procurement of goods or services. While performing services hereunder, Provider is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

1. PROVIDER'S South Dakota Vendor Number is _____. Upon execution of agreement, Provider will provide the State with Provider's Employer Identification Number or Federal Tax Identification Number.
2. PERIOD OF PERFORMANCE:
 - A. This Agreement shall be effective as of April 15, 2025 and shall end on May 31, 2025, unless sooner terminated pursuant to the terms hereof.
 - B. Agreement is the result of request for proposal process, RFP # _____
3. PROVISIONS:
 - A. The Purpose of this Provider contract:
 - 1.
 2. Does this Agreement involve Protected Health Information (PHI)? YES () NO (X)
If PHI is involved, a Business Associate Agreement must be attached and is fully incorporated herein as part of the Agreement (refer to attachment).
 3. The Provider WILL () WILL NOT () use state equipment, supplies or facilities.
 4. If WILL is indicated above, the following state equipment, supplies or facilities will be used:
 - B. The Provider agrees to perform the following services (add an attachment if needed):
 - 1.
 - C. The TOTAL CONTRACT AMOUNT will not exceed \$ _____.
Payment will be in accordance with SDCL 5-26-2.

4. **BILLING:**
Provider agrees to submit a bill for services within (30) days following the month in which services were provided. Provider will prepare and submit a monthly bill for services. Provider agrees to submit a final bill within 30 days of the Agreement end date to receive payment for completed services. If a final bill cannot be submitted in 30 days, then a written request for extension of time and explanation must be provided to the State.

5. **TECHNICAL ASSISTANCE:**
The State agrees to provide technical assistance regarding Department of Social Services rules, regulations and policies to the Provider and to assist in the correction of problem areas identified by the State's monitoring activities.

6. **LICENSING AND STANDARD COMPLIANCE:**
The Provider agrees to comply in full with all licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance in which the service and/or care is provided for the duration of this Agreement. The Provider will maintain effective internal controls in managing the federal award. Liability resulting from noncompliance with licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance or through the Provider's failure to ensure the safety of all individuals served is assumed entirely by the Provider.

7. **ASSURANCE REQUIREMENTS:**
(For Federally funded contracts only). The Provider agrees to abide by all applicable provisions of the following: Byrd Anti Lobbying Amendment (31 USC 1352), Executive orders 12549 and 12689 (Debarment and Suspension), Drug-Free Workplace, Executive Order 11246 Equal Employment Opportunity, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Drug Abuse Office and Treatment Act of 1972, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, Pro-Children Act of 1994, Hatch Act, Health Insurance Portability and Accountability Act (HIPAA) of 1996 as amended, Clean Air Act, Federal Water Pollution Control Act, Charitable Choice Provisions and Regulations, Equal Treatment for Faith-Based Religions at Title 28 Code of Federal Regulations Part 38, the Violence Against Women Reauthorization Act of 2013 and American Recovery and Reinvestment Act of 2009, as applicable; and any other nondiscrimination provision in the specific statute(s) under which application for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply to the award.

8. **COMPLIANCE WITH EXECUTIVE ORDER 2020-01:**
Executive Order 2020-01 provides that for providers, vendors, suppliers or subcontractors with five (5) or more employees who enter into a contract with the State that involves the expenditure of one hundred thousand dollars (\$100,000) or more, by signing this Agreement Provider certifies and agrees that it has not refused to transact business activities, has not terminated business activities, and has not taken other similar actions intended to limit its commercial relations, related to the subject matter of this Agreement, with a person or entity that is either the State of Israel, or a company doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel to do business, or doing business in the State of Israel, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to terminate this Agreement. Provider further agrees to provide immediate written notice to the State if during the term of this Agreement it no longer complies with this certification and agrees such noncompliance may be grounds for termination of this Agreement.

9. **COMPLIANCE WITH SDCL ch 5-18A:**
Provider certifies and agrees that the following information is correct:

The bidder or offeror is not an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates, of those entities or business associations, regardless of their principal place of business, which is ultimately owned or controlled, directly or indirectly, by a foreign parent entity from, or the government of, the People's Republic

of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela.

It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the purchasing agency to reject the bid or response submitted by the bidder or offeror on this project and terminate any contract awarded based on the bid or response, and further would be cause to suspend and debar a business under SDCL § 5-18D-12.

The successful bidder or offeror further agrees to provide immediate written notice to the purchasing agency if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination and would be cause to suspend and debar a business under SDCL § 5-18D-12.

10. CERTIFICATION OF NO STATE LEGISLATOR INTEREST:

Provider (i) understands neither a state legislator nor a business in which a state legislator has an ownership interest may be directly or indirectly interested in any contract with the State that was authorized by any law passed during the term for which that legislator was elected, or within one year thereafter, and (ii) has read South Dakota Constitution Article 3, Section 12 and has had the opportunity to seek independent legal advice on the applicability of that provision to this Agreement. By signing this Agreement, Provider hereby certifies that this Agreement is not made in violation of the South Dakota Constitution Article 3, Section 12.

11. RETENTION AND INSPECTION OF RECORDS:

The Provider agrees to maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records and documents regarding applications, determination of eligibility (when applicable), the provision of services, administrative costs, statistical, fiscal, other records, and information necessary for reporting and accountability required by the State. The Provider shall retain such records for a period of six years from the date of submission of the final expenditure report. If such records are under pending audit, the Provider agrees to hold such records for a longer period upon notification from the State. The State, through any authorized representative, will have access to and the right to examine and copy all records, books, papers or documents related to services rendered under this Agreement. State Proprietary Information retained in Provider's secondary and backup systems will remain fully subject to the obligations of confidentiality stated herein until such information is erased or destroyed in accordance with Provider's established record retention policies.

All payments to the Provider by the State are subject to site review and audit as prescribed and carried out by the State. Any over payment of this Agreement shall be returned to the State within thirty days after written notification to the Provider.

12. WORK PRODUCT:

Provider hereby acknowledges and agrees that all reports, plans, specifications, technical data, miscellaneous drawings, software system programs and documentation, procedures, or files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, and all information contained therein provided to the State by Provider in connection with the performance of services under this Agreement shall belong to and is the property of the State and will not be used in any way by Provider without the written consent of the State. Papers, reports, forms, software programs, source code(s) and other material which are a part of the work under this Agreement will not be copyrighted without written approval of the State.

13. TERMINATION:

This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Provider breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time, with or without notice. Upon termination of this Agreement, all accounts and payments shall be processed according to financial arrangements set forth herein for services rendered to date of termination. If termination for breach is effected by the State, any payments due to Provider at the time of termination may be adjusted to cover any additional costs to the State as a result of Provider's breach. Upon termination the State may take over the work and may award another party a contract to complete the work contemplated by this Agreement. If the State

terminates for a breach by Provider and it is determined that the Provider was not at fault, then Provider shall be paid for eligible services rendered and expenses incurred up to the date of termination.

Any terms of this Agreement that would, by their nature or through the express terms of this Agreement, survive the expiration or termination of this Agreement shall so survive, including but not limited to the terms of sections 10, 11, 15, 23, 24, and 27.

14. FUNDING:

This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of the law or federal funds reduction, this Agreement will be terminated by the State upon five days written notice. Provider agrees that termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State or any officer, agent or employee of the State and Provider waives any claim against the same.

15. ASSIGNMENT AND AMENDMENTS:

This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

16. CONTROLLING LAW:

This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota, without regard to any conflicts of law principles, decisional law, or statutory provision which would require or permit the application of another jurisdiction's substantive law. Venue for any lawsuit pertaining to or affecting this Agreement shall be resolved in the Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

17. THIRD PARTY BENEFICIARIES:

This agreement is intended to govern only the rights and interests of the parties named herein. It is not intended to create, does not and may not be relied upon to create, any rights, substantive or procedural, enforceable at law in any matters, civil or criminal.

18. SUPERSESSION:

All prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

19. IT STANDARDS:

Any service, software or hardware provided under this Agreement will comply with state standards which can be found at https://bit.sd.gov/bit?id=bit_standards_overview.

20. SEVERABILITY:

In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

21. NOTICE:

Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the Division being contracted with on behalf of the State, and by the Provider, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

22. SUBCONTRACTORS:

Provider may not use subcontractors to perform the services described herein without the express prior written consent of the State. Provider will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage in a manner consistent with this Agreement. Provider will cause its subcontractors, agents, and employees to

comply with applicable federal, tribal, state, and local laws, regulations, ordinances, guidelines, permits and other standards and will adopt such review and inspection procedures as are necessary to assure such compliance. The State, at its option, may require the vetting of any subconsultants. Provider shall assist in the vetting process.

23. STATE'S RIGHT TO REJECT:

The State reserves the right to reject any person from performing services under this Agreement who the State believes would be detrimental to the services, presents insufficient skills, presents inappropriate behavior or is considered by the State to be a security risk.

24. INDEMNIFICATION:

Provider agrees to indemnify the State of South Dakota, its officers, agents, and employees, from and against all claims or proceedings for actions, suits, damages, liabilities, other lossess or equitable releif that may arise at least in part as a result of an act or omission in performing services under this Agreement. Provider shall defend the State of South Dakota, its officers, agents, and employees against any claim, including any claim, action, suit, or other proceeding related to the claim. Provider's obligation to idemnify includes the payment of attorney fees and other costs of defense. In defending the State of South Dakota, its officers, agents, and employees, Provider shall engage other professionals, subject to the written approval of the State which shall not be unreasonably withheld. Notwithstanding the foregoing, the State may, in its sole discretion and at the expense of Provider, engage attorneys and other professionals to defend the State of South Dakota, its officers, agents, and employees, or to assist Provider in the defense. This section does not require Provider to be responsible for or defend against claims or proceedings for damages, liabilities, lossess or equitable relief arising solely from errors or omissions of the State, its officers, agents, or employees.

25. INSURANCE:

At all times during the term of this Agreement, Provider shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

A. Commercial General Liability Insurance:

Provider shall maintain occurrence-based commercial general liability insurance or an equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit. The insurance policy shall name the State of South Dakota, its officers and employees, as additional insureds, but liability coverage is limited to claims not barred by sovereign immunity. The State of South Dakota, its officers and employees do not hereby waive sovereign immunity for discretionary conduct as provided by law.

B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance:

Provider agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than one million dollars \$1,000,000.

C. Business Automobile Liability Insurance:

Provider shall maintain business automobile liability insurance or an equivalent form with a limit of not less than \$1,000,000 for each accident. This insurance shall include coverage for owned, hired and non-owned vehicles.

D. Worker's Compensation Insurance:

Provider shall procure and maintain Workers' Compensation and employers' liability insurance as required by South Dakota or federal law.

26. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:

Provider certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by

the federal government or any state or local government department or agency. Provider further agrees that it will immediately notify the State if during the term of this Agreement either it or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.

27. CONFLICT OF INTEREST:

Provider agrees to establish safeguards to prohibit employees or other persons from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain as contemplated by SDCL 5-18A-17 through 5-18A-17.6. Any potential conflict of interest must be disclosed in writing. In the event of a conflict of interest, the Provider expressly agrees to be bound by the conflict resolution process set forth in SDCL 5-18A-17 through 5-18A-17.6.

28. CONFIDENTIALITY OF INFORMATION:

For the purpose of this Agreement, "Confidential Information" shall include all information, regardless of its format, disclosed to Provider by the State and all information, regardless of its format, obtained by Provider through the provisions of services as contemplated by this Agreement. Provider, and any person or entity affiliated with Provider shall not disclose any Confidential Information to any third person for any reason without the express written permission of a State officer or employee with authority to authorize the disclosure. Provider, and any person or entity affiliated with Provider shall not: (i) disclose any Confidential Information to any third person unless otherwise specifically allowed under this Agreement; (ii) make any use of Confidential Information except to exercise rights and perform obligations under this Agreement; (iii) make Confidential Information available to any of its employees, officers, agents or providers except those who have agreed, by contract, to obligations of confidentiality at least as strict as those set out in this Agreement and who have a need to know such information and who have been instructed that such information is or may be confidential under state or federal law. Provider, and any person or entity affiliated with Provider is held to the same standard of care in guarding Confidential Information as it applies to its own confidential or proprietary information and materials of a similar nature, and no less than holding Confidential Information in the strictest confidence. Provider, and any person or entity affiliated with Provider shall protect the confidentiality of the State's information from the time of receipt to the time that such information is either returned to the State or destroyed to the extent that it cannot be recalled or reproduced.

Confidential Information shall not include information that: (i) was in the public domain at the time it was disclosed to Provider or to any person or entity affiliated with Provider; (ii) was known to Provider, or to any person or entity affiliated with Provider, without restriction at the time of disclosure from the State; (iii) was disclosed with the prior written approval of State's officers or employees having authority to disclose such information; (iv) was independently developed by Provider, or by any person or entity affiliated with Provider, without the benefit or influence of the State's information; or (v) becomes known to Provider, or to any person or entity affiliated with Provider, without restriction, from a source not connected to the State of South Dakota.

Confidential Information can include, but is not limited to, names, social security numbers, employer numbers, addresses and all other data about applicants, participants, employers or other clients to whom the State provides services of any kind. Provider understands that this information may be confidential and protected under state or federal law. Provider agrees to immediately notify the State if the information is disclosed, either intentionally or inadvertently.

If work assignments performed in the course of this Agreement require additional security requirements or clearance, Provider agrees that its officers, agents and employees may be required to undergo investigation or may be required to sign separate confidentiality agreements, and it will limit access to the confidential information and related work activities to employees that have executed such agreements.

Provider will enforce the terms of this Confidentiality Provision to its fullest extent.

Provider agrees to remove any employee or agent from performing work under this Agreement that has or is suspected to have violated the terms of this Confidentiality Provision and to immediately notify the State of such matter.

Provider will comply with any other confidentiality measures and terms included in the Agreement.

Upon termination of this Agreement, if not already done so as part of the services performed under the Agreement, Provider agrees to return to the State, at Provider's cost, any Confidential Information or documentation maintained by Provider regarding the services provided hereunder in a format readily useable by the State as mutually agreed by Provider and State.

29. REPORTING PROVISION:

Provider agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to any person or property, or which may otherwise subject Provider, or the State of South Dakota or its officers, agents or employees to liability. Provider shall report any such event to the State immediately upon discovery.

Provider's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Provider's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Provider to report any event to law enforcement or other entities under the requirements of any applicable law.

30. COST REPORTING REQUIREMENTS:

The Provider agrees to submit a cost report in the format required by the State and is due four months following the end of the Provider's fiscal year.

or

No reporting is required.

31. DAVIS-BACON ACT:

When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

32. COMPLIANCE WITH 40 U.S.C. 3702 AND 3704:

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

33. FUNDING AGREEMENT AND "RIGHTS TO INVENTION":

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the Provider wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Provider must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

34. FORCE MAJEURE:

Notwithstanding anything in this Agreement to the contrary, neither party shall be liable for any delay or failure to perform under the terms and conditions of this Agreement, if the delay or failure is caused by war, terrorist attacks, riots, civil commotion, fire, flood, earthquake or any act of God, or any causes beyond the party's reasonable control provided, however that in order to be excused from delay or failure to perform, the party must act diligently to remedy the cause of such delay or failure and must give notice to the other party as provided in this Agreement as soon as reasonably possible of the length and cause of the delay in performance.

35. **WAIVER OF BREACH:**

The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provisions in this Agreement.

36. **HEADINGS:**

The headings in this Agreement are for convenience and reference only and shall not govern, limit, modify or in any manner affect the scope, meaning, or intent of the provisions of this Agreement.

37. **SOVEREIGN IMMUNITY:**

Nothing in this Agreement is intended to constitute a waiver of sovereign immunity by or on behalf of the State of South Dakota, its agencies, officers, or employees.

37. **AUTHORITY TO EXECUTE:**

Provider represents and warrants that:

A. Provider is a corporation duly incorporated, validly existing and in good standing under the laws of its state of incorporation and has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;

B. The execution, delivery and performance of this Agreement has been duly authorized by Provider and no approval, authorization or consent of any governmental or regulatory agency is required to be obtained in order for Grantee to enter into this Agreement and perform its obligations under this Agreement;

C. Provider is duly authorized to conduct business in and is in good standing in each jurisdiction in which Grantee will conduct business in connection with this Agreement; and

D. Provider has obtained all licenses, certifications, permits, and authorizations necessary to perform the services under this Agreement and currently is in good standing with all regulatory agencies that regulate any or all aspects of Provider's performance of the services. Provider will maintain all required certifications, licenses, permits, and authorizations during the term of this Agreement at its own expense.

39. AUTHORIZED SIGNATURES:

In witness hereto, the parties signify their agreement by affixing their signatures hereto.

NO SIGNATURE REQUIRED AT THIS TIME _____

Provider Signature _____ Date _____

Provider Printed Name

State - DSS Division Director _____ Date _____

State - DSS Chief Financial Officer Jason Simmons _____ Date _____

State – DSS Cabinet Secretary Matthew K. Althoff _____ Date _____

State Agency Coding:

ALN #	_____	_____	_____	_____
Company	_____	_____	_____	_____
Account	_____	_____	_____	_____
Center Req	_____	_____	_____	_____
Center User	_____	_____	_____	_____
Dollar Total	_____	_____	_____	_____

DSS Program Contact Person _____
Phone _____

DSS Fiscal Contact Person Contract Accountant
Phone 605 773-3586

Provider Program Contact Person _____
Phone _____

Provider Program Email Address _____

Provider Fiscal Contact Person _____
Phone _____

Provider Fiscal Email Address _____

CERTIFICATION REQUIRED BY SDCL ch 5-18A

Section 1 Definitions. The words used in this Certification shall mean:

1.1. "Prohibited Entity," an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates, of those entities or business associations, regardless of their principal place of business, which is ultimately owned or controlled, directly or indirectly, by a foreign parent entity from, or the government of, the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela;

1.2. "Purchasing agency," any governmental body or officer authorized by law, administrative rule, or delegated authority, to enter into contracts;

1.3. "Contract," any type of agreement, regardless of what the agreement may be called, for the procurement of supplies, services, or construction;

Section 2. Certification. The undersigned hereby certifies to the State of South Dakota that:

2.1. The undersigned is not a Prohibited Entity.

2.2 If at any time after making this certification the undersigned becomes a Prohibited Entity, the undersigned will provide immediate written notice to all purchasing agencies with whom the undersigned has a Contract. The undersigned understands and agrees that if the undersigned becomes a Prohibited Entity, agencies may terminate any Contract with the undersigned.

2.3 The undersigned acknowledges and agrees that agencies have the right to terminate a Contract with any entity that submits a false certification, and that a false certification or failure to provide written notification to purchasing agencies that an entity has become a prohibited entity is cause to suspend or debar a business under SDCL § 5-18D-12.

Company

NO SIGNATURE REQUIRED AT THIS TIME

Title

Signature

Date

STATE OF SOUTH DAKOTA
DEPARTMENT OF SOCIAL SERVICES

Business Associate Agreement

1. Definitions

General definition:

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, 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 the Provider, Consultant or entity contracting with the State of South Dakota as set forth more fully in the Agreement this Business Associate Agreement is attached.
- (b) CFR. “CFR” shall mean the Code of Federal Regulations.
- (c) 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 to this agreement, shall mean South Dakota Department of Social Services.
- (d) Designated Record Set. “Designated Record Set” shall have the meaning given to such term in 45 CFR 164.501.
- (e) HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164 (Subparts A, C, D and E). More specifically, the “Privacy Rule” shall mean the regulations codified at 45 CFR Part 160 and Part 164 (Subparts A and E), and the “Security Rule” shall mean the regulations codified at 45 CFR Part 160 and Part 164 (Subparts A and C).
- (f) Protected Health Information. “Protected Health Information” or “PHI” shall mean the term as defined in 45 C.F.R. §160.103, and is limited to the Protected Health Information received from, or received or created on behalf of Covered Entity by Business Associate pursuant to performance of the Services under the Agreement.

2. Obligations and Activities of Business Associate

Business Associate agrees to:

- (a) Not Use or Disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law;
- (b) Use appropriate safeguards, and comply 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;
- (c) 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 of which it becomes aware within five (5) business days of receiving knowledge of such Use, Disclosure, Breach, or Security Incident;

- (d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, 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;

- (e) Make available Protected Health Information in a designated record set to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.524. Business associate shall cooperate with covered entity to fulfill all requests by Individuals for access to the Individual's Protected Health Information that are approved by covered entity. If business associate receives a request from an Individual for access to Protected Health Information, business associate shall forward such request to covered entity within ten (10) business days. Covered entity shall be solely responsible for determining the scope of Protected Health Information and Designated Record Set with respect to each request by an Individual for access to Protected Health Information;

- (f) Make any amendment(s) to Protected Health Information in a designated record set as directed or agreed to by the covered entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526. Within ten (10) business days following any such amendment or other measure, business associate shall provide written notice to covered entity confirming that business associate has made such amendments or other measures and containing any such information as may be necessary for covered entity to provide adequate notice to the Individual in accordance with 45 CFR 164.526. Should business associate receive requests to amend Protected Health Information from an Individual, Business associate shall cooperate with covered entity to fulfill all requests by Individuals for such amendments to the Individual's Protected Health Information that are approved by covered entity. If business associate receives a request from an Individual to amend Protected Health Information, business associate shall forward such request to covered entity within ten (10) business days. Covered entity shall be solely responsible for determining whether to amend any Protected Health Information with respect to each request by an Individual for access to Protected Health Information;

- (g) Maintain and make available the information required to provide an accounting of Disclosures to the covered entities necessary to satisfy covered entity's obligations under 45 CFR 164.528. Business associate shall cooperate with covered entity to fulfill all requests by Individuals for access to an accounting of Disclosures that are approved by covered entity. If business associate receives a request from an Individual for an accounting of Disclosures, business associate shall immediately forward such request to covered entity. Covered entity shall be solely responsible for determining whether

to release any account of Disclosures;

- (h) To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and

- (i) Make its internal practices, books, and records available to the covered entity and / or the Secretary of the United States Department of Health and Human Services for purposes of determining compliance with the HIPAA Rules.

3. Permitted Uses and Disclosures by Business Associate

- (a) Except as otherwise limited by this Agreement, Business Associate may make any uses and Disclosures of Protected Health Information necessary to perform its services to Covered Entity and otherwise meet its obligations under this Agreement, if such Use or Disclosure would not violate the Privacy Rule if done by the covered entity. All other Uses or Disclosure by Business Associate not authorized by this Agreement or by specific instruction of Covered Entity are prohibited.

- (b) The business associate is authorized to use Protected Health Information if the business associate de-identifies the information in accordance with 45 CFR 164.514(a)-(c). In order to de-identify any information, Business Associate must remove all information identifying the Individual including, but not limited to, the following: names, geographic subdivisions smaller than a state, all dates related to an Individual, all ages over the age of 89 (except such ages may be

aggregated into a single category of age 90 or older), telephone numbers, fax numbers, electronic mail (email) addresses, medical record numbers, account numbers, certificate/ license numbers, vehicle identifiers and serial numbers (including license plate numbers, device identifiers and serial numbers), web universal resource locators (URLs), internet protocol (IP) address number, biometric identifiers (including finger and voice prints), full face photographic images (and any comparable images), any other unique identifying number, and any other characteristic or code.

- (c) Business associate may Use or Disclose Protected Health Information as Required by Law.
- (d) Business associate agrees to make Uses and Disclosures and requests for Protected Health Information consistent with covered entity's Minimum Necessary policies and procedures.
- (e) Business associate may not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity except for the specific Uses and Disclosures set forth in (f) and (g).
- (f) Business associate may Disclose Protected Health Information for the proper management and administration of business associate or to carry out the legal responsibilities of the business associate, provided the Disclosures are Required by Law.
- (g) Business associate may provide Data Aggregation services relating to the Health Care Operations of the covered entity.

4. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

- (a) Covered entity shall notify business associate of any limitation(s) in the Notice of Privacy Practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect business associate's Use or Disclosure of Protected Health Information.
- (b) Covered entity shall notify business associate of any changes in, or revocation of, the permission by an Individual to Use or Disclose his or her Protected Health Information, to the extent that such changes may affect business associate's Use or Disclosure of Protected Health Information.
- (c) Covered entity shall notify business associate of any restriction on the Use or Disclosure of Protected Health Information that covered entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect business associate's Use or Disclosure of Protected Health Information.

5. Term and Termination

- (a) Term. The Term of this Agreement shall be effective as of and shall terminate on the dates set forth in the primary Agreement this Business Associate Agreement is attached to or on the date the primary Agreement terminates, whichever is sooner.
- (b) Termination for Cause. Business associate authorizes termination of this Agreement by covered entity, if covered entity determines business associate has violated a material term of the Agreement.
- (c) Obligations of Business Associate Upon Termination.
 1. Except as provided in paragraph (2) of this section, upon termination of this agreement for any reason, business associate shall return or destroy all Protected Health Information received from, or created or received by business associate on behalf of covered entity. This provision shall apply to Protected Health Information that is in the possession of Subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 2. If business associate determines that returning or destroying the Protected Health Information is infeasible, business associate shall provide to covered entity, within ten (10) business days, notification of the conditions that make return or destruction infeasible. Upon such determination, business associate shall extend the protections of this agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as business associate maintains such Protected Health Information.

(d) Survival. The obligations of business associate under this Section shall survive the termination of this Agreement.

6. Miscellaneous

- (a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- (b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.
- (c) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.
- (d) Conflicts. In the event of a conflict in between the terms of this Business Associate Agreement and the Agreement to which it is attached, the terms of this Business Associate Agreement shall prevail to the extent such an interpretation ensures compliance with the HIPAA Rules.

ATTACHMENT C- COST PROPOSAL

FUNDING	TOTAL COSTS
Personnel Costs:	
Administrative	
Professional/Program Staff	
Support Staff	
Benefits	
Other: (Describe)	
SUBTOTAL, PERSONNEL COSTS	
Operating Costs:	
Insurance	
Staff Travel	
Education Materials	
Staff Development and Education	
Other Costs: (Describe)	
SUBTOTAL, OPERATING COSTS	
Equipment Costs:	
Equipment and Supplies	
Printing/Publishing/Postage	
Telephone/Cell Phones/Internet	
Office Supplies	
Vehicle Cost and Maintenance	
Other Costs: (Describe)	
SUBTOTAL, EQUIPMENT COST	
Other Costs: (Describe)	
Other Expenses	
Staff recruitment advertising for open positions	
SUBTOTAL, OTHER COSTS	
TOTAL FUNDING REQUEST	