

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

**Foster Care Licensing and Kinship Licensing**

PROPOSALS ARE DUE NO LATER THAN APRIL 03, 2025 by 5:00 CST.

RFP13688

State POC: Kirsten Blachford

EMAIL: Kirsten.Blachford@state.sd.us

**READ CAREFULLY**

FIRM NAME: \_\_\_\_\_ AUTHORIZED SIGNATURE: \_\_\_\_\_  
(Digital signature allowed)

ADDRESS: \_\_\_\_\_ TYPE OR PRINT NAME: \_\_\_\_\_

CITY/STATE: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

ZIP (9 DIGIT): \_\_\_\_\_ FAX NO: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

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PRIMARY CONTACT INFORMATION

CONTACT NAME: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

FAX NO: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

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## **1.0 GENERAL INFORMATION**

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

The Office of Licensing and Accreditation with the Department of Social Services is seeking proposals from qualified organizations to support recruitment, training, and licensure of foster families, licensure of kinship families, and child placement support.

The Department is open to proposals that include partnerships with another agency to carry out specific areas of the scope of work such as pre-licensure and post-licensure training or scope of work within a regional area. The Department may accept a proposal for a specific scope of work such as foster care training. If proposals are submitted that only address a specific scope of work, the Department will evaluate the proposals for that specific scope of work, however, a key factor to the award will be ensuring all scope of work outlined in the RFP is addressed across various proposal.

### **1.2 ISSUING OFFICE AND RFP REFERENCE NUMBER**

The Office of Licensing and Accreditation 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 RFP13688. 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 must be submitted to Kirsten Blachford via email at [Kirsten.Blachford@state.sd.us](mailto:Kirsten.Blachford@state.sd.us) no later than March 06, 2025. Please place the following in the subject line of your email: Letter of Intent for RFP13688.

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

RFP Publication	<u>February 25, 2025</u>
Letter of Intent to Respond Due	<u>March 06, 2025</u>
Offeror Questions Due	<u>March 13, 2025</u>
Responses to Offeror Questions	<u>March 20, 2025</u>
Request for SFTP folder	<u>March 27, 2025</u>
Proposal Submission	<u>April 03, 2025</u>
Proposal Revisions (if required)	<u>TBD</u>
Anticipated Award Decision/Contract Negotiation	<u>May 01, 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](mailto:Kirsten.Blachford@state.sd.us).

The subject line should read RFP13688 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 may be signed in ink or digitally by an officer of the offeror legally authorized to bind the offeror to the proposal and sealed in the form intended by the respondent. Proposals that are not properly signed may be rejected.

No proposal may be accepted from, or any contract or purchase order 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](mailto:Kirsten.Blachford@state.sd.us) with the subject line RFP13688 Inquiries.

The State will respond to offeror's inquiries (if required) via e-mail. In addition, all inquiries and the State's responses will be posted on the state's e-procurement system and the DSS website at <http://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.

**1.14 LENGTH OF CONTRACT**

The contract resulting from this RFP will be issued for the period of approximately one (1) year ending May 31, 2026, 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, B**, and the State's standard Information Technology ("IT") contract terms listed in **Attachment C**, along with any additional terms and conditions that may be necessary to the performance of the scope of work. The offeror must indicate in its response any issues it has with specific IT contract terms. If the offeror does not indicate that there is an issue with a specific IT contract term, then the offeror will be deemed to have accepted the IT contract terms as written.

- 2.1** The Contractor will perform those services described in the Scope of Work, attached hereto as Section 3.0 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 Office of Licensing and Accreditation with the Department of Social Services is seeking proposals from qualified organizations to support recruitment, training, and licensure of foster families, licensure of kinship families, and child placement support.

The Department is open to proposals that address all the scope of work as well as proposals that include partnerships with another agency to carry out specific areas of the scope of work such as pre-licensure and post-licensure training or scope of work within a regional area. The Department is also open to proposals for a specific scope of work such as foster care training. If proposals are submitted that only address a specific scope of work, the Department will evaluate the proposals for that specific scope of work, however, a key factor to the award will be ensuring all scope of work outlined in the RFP is addressed across various proposal.

- 3.1 Overview:** The Department of Social Services vision is Strong Families – South Dakota’s Foundation and Our Future. The Office of Licensing and Accreditation collaboratively works with Child Protection Services to ensure families are prepared to meet the unique needs of children in custody through the licensure of foster and kinship families.

*Stronger Families Together* initiative was developed to recruit and support foster parents in South Dakota. The following are the guiding principles for the initiative.

- All children deserve to grow up in a family where they are loved and protected.

- Foster families are needed to care for children and support their families when they are experiencing challenges that cause the children to be unsafe.
- Encouragement, support, and services are needed for parents, kinship families, foster families, and adoptive families to provide the best care possible for children.
- Families are needed to provide children with a safe, stable, and permanent forever family if they cannot return home.

In the summer of 2024, the Office of Licensing and Accreditation identified the following process improvement strategies and goals to more efficiently and effectively license and support families, as well as identify placements.

- Streamline the inquiry and licensure process to ensure families complete the licensure process as quickly as possible.
- Implement updated pre-licensure training using National Training and Development Curriculum (NTDC) as the foundation for the updated training.
- Pre-licensure training can be used to inform the home study, but it is not dependent upon completion of the home study. With that being said, as required in administrative rule, pre-licensure training must be completed before issuing the license.
- Ensure families have a consistent single point of contact from inquiry through licensing renewals to support retention.

OLA is seeking a vendor to work alongside State Foster Care Licensing Staff to assist in implementing the goals and strategies identified above which includes support for foster care recruitment, pre-licensure training, post-licensure training, identifying placements for children, and licensing renewals. The goals and strategies call for a modification of current roles, responsibilities, and processes.

To ensure a successful transition, implementation of the goals and strategies may be piloted in one or two areas of the state before expanding to a state-wide model.

In addition, OLA is seeking a vendor to complete home studies of licensed kinship families for children in the custody and/or care of the Department of Social Services including kinship home-studies for children in the custody of other states seeking placement with kinship families and parents in South Dakota through the Interstate Compact on the Placement of Children (ICPC).

### **3.1.1 Vendor Response: Overview**

- Describe experience that positions the vendor to carry out the responsibilities outlined in the RFP. Include how the vendor has addressed handling project constraints in prior work or contracts. As required in section 4.3 of the RFP, include three previous and current service/contracts.
- Provide an implementation plan that will assist the state in modifying processes to meet the goals identified above.
- Describe the overall proposed project management techniques.

## **3.2 Personnel, Monitoring, and Evaluation**

- ### **3.2.1**
- The scope of work outlined in the RFP requires key positions such as inquiry coordinator, licensing staff to complete basic foster care home studies and kinship licensing home-studies, placement coordinator, management/supervisor(s), and data specialist to monitor and report out data.

To implement a single point of contact from inquiry through licensing to renewals including placement support, vendors should exam the scope of work to determine the appropriate levels of support needed. The state has completed an initial estimate of 11-12 licensing staff in addition to the 10 OLA foster care licensing staff may be needed to support basic foster care licensing including initial licensure, renewal, placement support, and recruitment/retention work.



The state estimate does not limit the vendor from proposing a different level of support. The vendor will be responsible to complete all home-studies for kinship licensed families. See Pre-Licensure and Renewal of Kinship Families section for data to determine estimated number of staff. Regionally placed licensing staff is key to efficiently and effectively meeting the requirements outlined in the RFP. The staffing estimates does not include pre-licensure or post-licensure training, inquiry coordinator, placement coordinator, or any other positions to support the licensure and placement work (i.e. supervisor/manager). Pre-service foster care trainers may or may not be the same individual(s) who write a basic home study. Pre-service foster care trainers will collaborate with vendor who will be the single point of contact for families.

Routinely evaluating processes and providing support and professional development to staff is a critical component to successfully reaching the goals and requirements outlined in the RFP. In addition to evaluating processes, the Office of Licensing and Accreditation will be conducting performance reviews of the vendor's performance.

**3.2.2 The selected vendor will be required to:**

- Ensure staff meets qualification guidelines of a bachelor's degree in social work, psychology, sociology, public administration, or other human service-related fields.
- Recruit and hire positions if a vacancy occurs promptly.
- Conduct background checks on all staff assigned to the project
- Shift caseloads to meet deliverables when vacancies occur.
- Routinely evaluate processes for Inquiry, Foster and Adoptive Parent Training, Initial Home Studies, Renewal Home Studies, Kinship Home Studies, Kinship Renewal Studies, Placements, Retention, and Supports to ensure efficiency.
- Work with OLA to provide ongoing training to staff on assessing prospective families and writing home studies.
- Provide oversight for staff to achieve quality and consistency of services for all areas served.

**3.2.3 Vendor Response: Recruitment of Foster and Adoptive Families:**

- Describe the position qualifications and responsibilities for each role.
- Provide the names, roles, home-station, and resumes of everyone who will carry out the scope of work.
- Include an organizational chart to outline the proposed reporting structure.
- Describe how the vendor will ensure work is completed if staffing vacancies occur.
- Describe how the vendor will train and provide ongoing supervision and support to ensure quality work.
- Describe what process will be utilized to evaluate the performance of staff assigned to complete the work.
- Describe the vendor's plans to work with OLA to routinely evaluate processes and if needed make necessary changes to process.

**3.3 Stronger Families Together Recruitment**

Stronger Families Together (SFT) steering committee was formed to support the effort to recruit and support foster and adoptive families. The steering committee emphasizes leadership, decision-making, and oversight while developing and implementing recruitment strategies and activities guiding the initiative's messaging and collecting stories that demonstrate the guiding principles. The steering committee meets quarterly to review data including data gathered during inquiry and pre-licensing process as well as discuss recruitment and retention strategies.

While each community in South Dakota has their own unique recruitment needs, there are similarities in placement needs statewide. South Dakota recruitment efforts target the following:

- Native American families to care for Native American children.
- Families to care for brothers and sisters.
- Families to care for older youth (10-18).

- Families who can care for children who require specialized care due to behavioral, mental health, medical needs, or developmental disability needs.
- Families who can care for children and support their parents to achieve reunification.

Office of Licensing and Accreditation has collaborated with Child Protection Services staff providing Stronger Families Together recruitment materials and interacted with attendees about the need for additional foster families at events such as Community Response to Child Abuse Conference in Sioux Falls, Lakota Nation Invitational in Rapid City, Informational meeting at the Ellsworth Airforce Base, and Foster Fest in Pierre.

**3.3.1 The selected vendor will be required to:**

- Work with the Office of Licensing and Accreditation staff and Child Protection staff to recruit families.
- Participate in the SFT steering committee meetings and SFT regional recruitment team meetings.
- Participate in recruitment events including but not limited to recruitment booths, church events, and holiday events.
- Interact with the public sharing SFT recruitment needs.
- Each staff completing licensure responsibilities will dedicate time (approximately five hours monthly) to recruitment events and activities.

**3.3.2 Vendor Response: Recruitment of Foster and Adoptive Families:**

- Describe how the vendor will recruit foster and adoptive families and collaborate, participate, and support efforts across the state.
- Include in the response who will participate in the Stronger Families Together Steering Committee and the information that will be shared during the steering committee.
- Describe strategies to support local recruitment efforts and how the vendor will dedicate time and resources to support recruitment efforts.

**3.4 Inquiry Functions**

The first communication with families to follow up on an inquiry is a critical first step in the licensing process. The inquiry process begins when the family initiates contact and wants to learn more about becoming a licensed foster family. Individuals and families contact the State by e-mail or phone to learn more about becoming a foster family. The vendor will contact the family to answer any initial questions. A packet of information is sent to the family after the initial call.

The average number of inquiries per month is typically between 75 to 80.

**3.4.1 The selected vendor will be required to:**

- Provide a phone number for prospective families to call.
- Mails or e-mails the family with a packet of information after the initial call.
- Contacts the family within 48 hours to discuss foster care and the licensing process, as well as gather information from the family
- Manage the inquiry process state-wide by assigning families to the correct Licensing Specialist within one working day
- Contact the assigned staff and provide the necessary information on the family and date follow-up required.
- Approximately, one week after the initial call, schedule and conduct a home visit with the family to assist the family in deciding to move forward with licensure.
- Utilize a system to track assignments and data.
- Implement a process to consistently track and monitor each inquiry to capture where they are at in the inquiry process including capturing the following data elements at a minimum;
  - referral source,
  - date each contact is made and the outcome of the contact,
  - reason for not continuing if applicable, and
  - family demographic data identified by the State.

- Routinely gather feedback from families about their experiences during the inquiry process.
- Routinely engage with prospective foster parents who are not immediately ready to move forward with licensure.

#### **3.4.2 Vendor Response: Inquiry Functions:**

- Describe how the vendor will meet the above requirements including tracking timelines of interactions with families to ensure required deadlines are met.
- Describe how the family will be assigned to a Licensing Specialist to ensure the family is contacted promptly.
- Describe the process for reengaging with prospective families who indicate interest but are not ready to move forward immediately.
- Describe the process to evaluate data to ensure timelines are met and gather feedback from families regarding their experience during the inquiry process.

### **3.5 Mutual Assessment & Initial Home Study for Basic Foster Care Licensing**

The mutual assessment process begins with an initial home-visit and is completed over time through discussions with the family. The Mutual Assessment process is designed to help families assess their strengths and needs for support in the following competency categories:

- Protecting and nurturing children
- Meeting children’s developmental needs and addressing developmental delays.
- Supporting relationships between children and their families
- Connecting children to safe, nurturing relationships to last a lifetime.
- Working as a member of a professional team

During the initial home visit, participants are selected for Foster and Adoptive Parent Training on their ability to meet the current foster care needs including willingness to care for sibling groups, teens, children with medically complex issues, and children from different cultures or other needs as identified.

At least two home visits are generally completed along with a virtual contact or phone call. Additional home visits and/or contacts may be needed. A safety and sanitation inspection is conducted during one of the home visits and are included as part of the home study. Background checks for in-state and out-of-state abuse and neglect, SD sex offender checks, and in-state and FBI criminal history are also conducted as part of the mutual assessment process. The mutual assessment will be summarized in an initial home study.

The initial home study is a professional written report that is;

- free of grammar and spelling errors,
- includes sufficient information to assess family foster home licensing and/or adoption approval standards,
- contains recommendations justified by information gathered, analyzed, and documented in the home study,
- includes all State required elements, and
- incorporates an evaluation of the family’s strengths and areas of need to create a development plan to enhance the family’s skills.

The Department expects to see families becoming licensed in a shorter timeframe upon implementation of a streamlined licensure process. The goal is to license families who are ready to begin the licensure process within 90 days of signing the application.

#### **3.5.1 The selected vendor will be required to:**

- Utilize a system to track contacts and gather information about the family.
- Log specific information into FACIS until the new OLA-MIS becomes operational for foster care and adoption families.
- Working with the family, determine the best time for a family to start the Foster and Adoptive Parent training and communicate how to begin the training.

- Develop a plan to maintain contact with a family who has indicated interest but is not ready to begin training.
- Conduct an initial home visit approximately one week after the inquiry coordinator calls the family or timeline based on the family's preference/schedule.
- Collect a signed application from applicants during the first home visit with the family if the family is ready to begin the process.
- Collaborate with the State to ensure digital background fingerprint scans are completed.
- Conduct at least two home-visits in the family's home to gather information for the mutual assessment and conduct a sanitation and safety inspection.
- Complete the initial home study on perspective applicants for licensure and adoption approval using the initial home study documents provided by the Office of Licensing and Accreditation.
- Make a recommendation regarding licensure to provide foster care and or approval for adoption of the applicants.
- Submit to the State all documents associated with the licensing process including the home study, no later than 90 days after the individual signs the application. If an extension is needed, submit to the State the reason for the extension and add this information to the home study. Approved reasons for an extension include the following:
  - Out of State Central Registry Results not received
  - Criminal Background Results not received
- Track completion of major milestone activities that result in a completed home study including home visits, submission of background checks, and submission of individual documents submitted by the family.

### **3.5.2 Vendor Response: Mutual Assessment & Initial Home Study:**

- Describe how the vendor will meet the above requirements and ensure the family is contacted on time and all required information is gathered.
- Include in the response family engagement and information-gathering techniques to be used when completing the mutual assessment and home study process.
- Describe how the mutual assessment, background checks, and initial home studies will be completed including family engagement techniques to be used during the process to gather necessary information.
- Describe how major milestones activities that result in a completed home study will be monitored and tracked.
- Describe how staff will be assigned to families ensuring families have one contact for pre-licensure and post-licensure.
- Describe what efforts will occur to ensure that Initial Home studies are written consistently, thoroughly, and professionally, all required information is included, and the home study is completed within the required timeframe.

### **3.6 Post-Licensure: Licensing Renewal and Support**

As mentioned in the Overview, OLA has identified a goal of implementing one main point of contact for families. To achieve this goal, the vendor will be assigned a caseload for licensure renewals in which the vendor must assess the foster family's ability to provide care on an annual basis. Implementation of licensing renewal may be piloted in a region before state-wide implementation is required.

There is an average of 820 annual basic foster family renewals completed each. The average time to complete one renewal is 10-11 hours including 2.5 hours of travel time. If staff must travel farther, then additional time is required to complete a renewal. In addition to the renewals, OLA staff typically spend approximately 15 hours a month on technical assistance and retention efforts. OLA has estimated that with a total of 21-22 staff (10 state staff and 11-12 contracted staff), each staff will complete an average of 37 renewals annually. The estimated staff needed does not include staff to conduct training or supervision/management.

The renewal process begins approximately 60 days before the family's license expires by providing the family with a renewal packet with all the necessary documents for their renewal.

Before scheduling a renewal home visit the vendor will review the FACIS system to determine if any household members have turned 14 to ensure the Sex Offender Registry was completed. The vendor will determine if any household members have turned 18 to ensure the DCI/FBI and Central Registry forms have been completed and scanned in file director. If these checks have not been completed previously the vendor will notify the family these background checks need to be completed before the approval of the annual renewal. If fingerprints are submitted with pending results the vendor can approve the annual renewal. The vendor will document the pending results in the renewal home study.

The vendor will contact the Division of Child Protection Family Services Specialist (FSS) and staff the foster family with the FSS before the annual renewal visit. The vendor will give any updates regarding the family since the last renewal visit.

The vendor will complete the annual renewal visit with the family and ensure the family complies with all licensing rules. Six hours of training is required for annual license renewal. The foster family is responsible for obtaining at least six hours of training together or individually. If the foster family is providing Specialized foster care 12 hours of training is needed. If the annual training has not been completed by the end of the renewal year the vendor must work with the foster family to create a plan to ensure the training hours are completed within a reasonable timeframe.

The vendor will provide technical assistance to families and maintain communication and support at the level needed for each family they are assigned throughout the licensing year. The vendor will be available to families via email, phone calls, or text messages The vendor may be asked to attend placement support or team meetings with their family. The vendor will address any non-compliance issues with the family. When necessary, the vendor will document Compliance Plans and Corrective Actions Plans with the family.

The vendor will support all retention events by ensuring their families are aware of events along with the various trainings offered across the state for families.

**3.6.1 The selected vendor will be required to:**

- Communicate with families 60 days prior to the expiration of license to provide renewal information and schedule annual renewal home visits.
- Conduct annual renewal home visits at least 30 days prior to licensure expiration.
- Complete the annual renewal study on applicants for licensure and adoption approval using the renewal home study documents provided by the Office of Licensing and Accreditation.
- Make a recommendation regarding licensure to provide foster care and or approval for adoption of the applicants.
- Submit to the State all documents associated with the licensing process, a minimum of 15 days before the family's expiration date. If an extension is needed, submit to the State the reason for the extension and add this information to the annual renewal home study.
- Monitoring to ensure all household members have the necessary background checks completed.
- Maintain communication with their assigned family.
- Address any non-compliance issues with the family within two business days upon assignment.
- Support basic foster families through technical assistance and retention efforts.
- Manage and track renewal data in FACIS or the new OLA system when implemented.

**3.6.2 Vendor Response: Licensing Renewal and Support**

- Describe how the vendor will meet the above requirements and ensure the family is supported and monitored.

- Describe what efforts will occur to ensure that renewal home studies are written consistently, thoroughly, and professionally, all required information is included, and the home study is completed within the required timeframe.

### **3.7 Placement Support**

OLA partners with CPS to identify potential foster families for emergency placement requests that are identified during business hours as well as non-emergency placement requests (disruptions). The State is seeking to implement a Placement Coordinator to review and assign all placement requests to manage and monitor placement requests more effectively. The Placement Coordinator will track all placements state-wide and ensure timely follow-up from vendor to Child Protection staff.

When a placement request is identified, the vendor will work with OLA and CPS to provide placement matching. In collaboration with OLA, the vendor will need to ensure staff assigned to placement responsibilities are available and prioritize placement responsibilities for a specific timeframe. For example, assigning specific days dedicated to cover placement duties for a specified coverage area. During the assigned placement days, staff must be available and respond to all CPS placement requests and align families to children's needs using placement criteria.

Placement support **may** be piloted in a specific region of the state to ensure success before expanding to state-wide implementation. Currently, OLA spends approximately 50 to 60% of their time in a month supporting placement requests. OLA estimates that adding 11-12 additional staff to support licensing and placement work will reduce the time spent per month on placement to 40% for each staff.

On a regional basis, OLA and CPS have established a routine meeting schedule to discuss placement requests. The purpose of the meetings is to discuss current placement requests and any upcoming placement requests. The vendor will also participate in the meetings.

#### **3.7.1 The selected vendor will be required to:**

- Track statewide placement requests, placement efforts, and the outcome of the requests.
- Assign placement requests to the correct staff.
- Complete a diligent placement search which includes but is not limited to the following:
  - Gather sufficient information to ensure children's safety in a placement.
  - Identify families in their district to contact for the children.
  - Contact identified families via phone, email, and or text.
  - Work with staff to secure additional names to contact if needed.
  - Document all placement efforts.
- Maintain communication with the Child Protection Services staff who submitted the placement request.
- Meet with Child Protection Services staff to discuss any ongoing placement requests.

#### **3.7.2 Vendor Response: Placement Support:**

- Describe how the vendor will meet the above requirements and ensure Child Protection Services placement requests are met.
- Describe the vendor's understanding of placement matching priorities.
- Describe how the vendor will train staff on placement matching and monitor staff to ensure recommendations align placement priorities when possible.
- Outline an implementation plan to support placement across the state.

### **3.8 Pre-Licensure Foster and Adoptive Parent Training:**

Foster families are required to participate in 30 hours of Foster and Adoptive Parent Training including three hours of introduction to and overview of state policy and procedures. Foster and adoptive parent training must include:

- The impact of separation on child development;
- How attachments are formed;
- The importance of the birth family;

- Techniques of managing behavior;
- The Reasonable and Prudent Parent Standard;
- Permanency planning for children;
- Child development; and
- CPR and first aid and medication management training.

The State is in the process of transitioning to an updated curriculum, the National Training and Development Curriculum (NTDC), for Foster and Adoptive Parent Training. The curriculum is designed to be delivered in a face-to-face setting but can be adapted to meet multiple delivery models. All families must complete the State modified NTDC curriculum as the modifications made to the curriculum include SD specific content. The State envisions a blended training (combination of asynchronous and synchronous virtual training along with face-to-face training) model to meet the needs of most families participating in the pre-licensure process. Virtual sessions may be offered for training sections that include a face-to-face session, and the family cannot participate due to location challenges. The State has identified SD Learn as the Learning Management System to assist with administration and tracking participants' progress through the training.

Families should be able to enroll in training geographically close to their home address. Families who commit to becoming licensed foster families should begin training within two weeks of being invited to begin the training if possible. The target timeframe for families to complete training is 10 weeks. Any changes in class dates will be approved by the Office of Licensing and Accreditation. Face-to-face training opportunities may need to be offered to accommodate a specific group of families. Training feedback/evaluations must be collected to inform future training.

The trainer(s) must have a background in child welfare including familiarity with the National Training and Development Curriculum. The trainer(s) must also have experience providing professional development, strong communication skills, the ability to ask open-ended questions and encourage discussion, engage families, and have a familiarity with technology.

As referenced in previous sections, individuals administering the training do not necessarily need to be individuals who are completing the home-study. Pre-service training and tools and resources used for training must be the same for all families regardless of who is facilitating/leading the training.

### **3.8.1 The selected vendor will be required to:**

- Offer at least twenty-four training sessions with at least one new session starting every month. Enrollment of each session should be approximately 10-15 families. If needed, additional virtual trainings will be offered to ensure families can begin training within four weeks of their initial home visit.
  - Eight trainings in Rapid City
  - Eight trainings in Sioux Falls
  - Eight virtual trainings or in a specific location
- Assist the state in finalizing the transition to the new curriculum
- Administer training using a learning management system and track families progress toward completion of the training.
- Provide the State with an annual training schedule outlining all training offered across South Dakota.
- Schedule and administer face-to-face training if needed for a select group of families.
- Work with the State to develop the topics covered in the overview of State policy and procedures.
- Ensure trainer(s) have a thorough understanding of the National Training and Development curriculum.
- Monitor each family's progress and encourage families to complete training within the targeted timeframe.
- Capture the date each family completes each training module and if a family does not complete the training, the reason for not completing the training.

- Gather training feedback/evaluations from families within 30 days of completing the training requirements.

### **3.8.2 Vendor Response: Foster & Adoptive Parent Training**

- Describe the vendor's proposed plan to administer sections of Foster & Adoptive Parent Training including how the plan will address all the requirements outlined above.
- Describe how the vendor will ensure staff are trained to administer the Foster and Adoptive Parent Training Curriculum.
- Identify the staff who will administer the training, and their experience, knowledge, and skills related to child welfare and delivery of professional development.
- Describe how training feedback/evaluations will be collected from families.
- Provide a training schedule for year one.

## **3.9 Post-Licensure Foster and Adoptive Parent Training**

Foster and Adoptive families are required to complete at least 6 hours of ongoing training. In collaboration with OLA and CPS, training topics must be identified and offered monthly to families to assist the family in building their capacity and fulfilling their yearly training hours. Training can be offered face-to-face in a region/district or via Zoom.

### **3.9.1 The selected vendor will be required to:**

- Facilitate at least one virtual training opportunity a month for licensed foster families using the NTDC materials or additional training materials approved by the State.
- Provide the State informational materials outlining training opportunities that will be sent to licensed foster families.
- Register and track participation in the training.
- Gather feedback (training evaluations) from the participants.
- Submit final report outlining participation and summary of feedback to the State.

### **3.9.2 Vendor Response: Post-Licensure Foster and Adoptive Training**

- Describe the vendor's proposed plan to administer training.
- Describe how the vendor will ensure staff are trained to administer training to families.
- Identify the staff who will administer the training and their experience, knowledge, and skills related to child welfare and delivery of professional development.
- Offer and track training through the Learning Management System
- Describe how training feedback/evaluations will be collected from families.

## **3.10 Kinship Pre-Licensure and Renewal**

Kinship care is defined as the continuous care provided for a child requiring out-of-home placement in the home of a relative. Fictive kinship (close family friends who had a prior relationship with the child) may also be considered to be kinship. The practice of relatives or "Kin" parenting children when their birth parents cannot is a time-honored tradition in most cultures. Within the child welfare system, children have the right to be with people they know, provided they will be safe and it is in their best interest. Relative placements ensure children will have connections to their families and be a part of their culture. Requests for kinship home studies will be referred by South Dakota Child Protection Services for placement of children in custody and referrals received through the Interstate Compact for Placement of Children from other states. Parental home studies may also be requested on an as needed basis for children in custody.

Currently, SD kin/relative foster and adoptive families must meet the same requirement for foster home licensure and adoption approval. To expand the pool of resources to support children in DSS custody, the Department of Social Services is proposing new Kinship Licensing Administrative rules that will remove barriers for kinship families to become licensed. The Department plans to bring before the Legislative Rules Committee the proposed Kinship Licensing Rules in the Spring of 2025 with the goal of implementing the new rules starting on June 1, 2025.



The proposed Kinship Licensing Administrative rules align with the basic foster care licensing requirements, except for requirements that were identified as barriers to kinship families becoming licensed. The main differences are identified as follows:

- No physical health exam is required for kinship applicants. The licensing agency may request medical or psychological evaluation if needed.
- Kinship families are not required to complete the 30 hours of preservice training. Training will be based on individual needs.
- The age requirement for kinship applicants will be 19 instead of 21.
- There will not be a maximum number of children. The capacity of number of children in the home will be assessed on an individual basis.
- There will be no restrictions regarding age or sex to sleep in the same bedroom. Sleeping arrangements for children must be approved by the licensing agency.

The State expects that almost all the kin/relative foster and adoptive families will choose to become Kinship Licensed. In state fiscal year 2024, 343 kinship studies were requested. The State expects most of the families will become kinship licensed. The State estimates that approximately 35-40 kinship families will have children in their home for over 12 months and therefore a kinship licensing renewals will need to be completed.

Kinship Licensing process begins when CPS identifies a family. Upon request from CPS, the Vendor will contact the kinship family within 48 hours to start work with the family on the kinship licensing requirements.

The mutual assessment is completed through discussions with the family. At least one home visit is required. Additional home visits and/or contacts may be needed. Background checks for in-state and out-of-state abuse and neglect, SD sex offender checks, and in-state and FBI criminal history are also conducted as part of the mutual assessment process. The mutual assessment will be summarized in the kinship home study.

If the kinship family needs to remain operational after their initial year of licensure and adoption approval the vendor must assess the family's ability to provide care annually. The Vendor will contact the family 60 days before expiration to determine if the renewal is necessary. The vendor will provide the family with a renewal packet with the necessary documents for their renewal.

The kinship home study and kinship renewal study are a professional written report that is;

- free of grammar and spelling errors,
- includes sufficient information to assess kinship foster home licensing and/or kinship adoption approval standards,
- contains recommendations justified by information gathered, analyzed, and documented in the home study,
- includes all State required elements.

The Vendor will maintain communication and support at the level needed for each family they are assigned throughout the licensing year. The Vendor will address any non-compliance issues with the family. When necessary, the Vendor will document Compliance Plans and Corrective Actions Plans with the family.

At times, a kinship family may choose not to pursue kinship licensure. An assessment and home study will still need to be completed, but the home study and data will need to indicate that the family is not licensed.

All Interstate Compact on the Placement of Children (ICPC) home study requests will be from the DSS Compact Administrator. The ICPC request will include the name of the resource and child(ren) that the home study is being requested for. Information regarding the children's strengths and needs as well as

their case plan goals should be included in the request. The ICPC kinship home study process is similar to the kinship home study and timeframes for completion are the same.

A parent home study may also be required. In State fiscal year 2024, there were 24 parent home-studies requested. The mutual assessment and home study will be very similar to the kinship licensure process.

### **3.10.1 The selected vendor will be required to:**

- Work closely with the OLA to review and update procedures/protocols to improve the process for kinship home studies and kinship renewal studies.
- Contact the kinship family within 48 hours to start work with the family on the kinship licensing requirements.
- Complete the mutual assessment and kinship home study using documents provided by the OLA.
- Implement a process to consistently track and monitor each family to capture where they are at in the inquiry process including capturing the following data elements at a minimum;
  - referral source,
  - date each contact is made and the outcome of the contact,
  - reason for not continuing if applicable, and
  - family demographic data identified by the State.
- When necessary complete the annual renewal study on kinship families for licensure and adoption approval using the renewal home study documents provided by the OLA.
- Collect signed application from applicants during the first home visit with the family and at the time of their renewal.
- Assess families and provide quality information and recommendations to assist the OLA in deciding on the approval of the applicant. OLA will make the final decision regarding the approval of the applicant.
- Collaborate with the State to ensure digital background fingerprint scans are completed on all applicants and household members over the age of 18.
- Ensure all household members have the necessary background checks completed.
- Submit to the State all documents associated with the initial kinship licensing process including the home study 30 business days from the initial request. If an extension is needed, submit to the State the reason for the extension and add this information to the home study. Approved reasons for an extension include the following:
  - Out of State Central Registry Results not received.
  - Criminal Background Results not received.
  - The family is not immediately available to complete the home visit.
- Track completion of major milestone activities that result in a completed home study including home visits, submission of background checks, and submission of individual documents submitted by the family.
- For kinship renewal studies submit to the State all documents associated with the licensing process, a minimum of 15 days before the family's expiration date. If an extension is needed, submit to the State the reason for the extension and add this information to the annual renewal home study.
- Maintain communication with their assigned family.
- Address any non-compliance issues with the family.
- Log specific information into FACIS until the new OLA-MIS becomes operational for foster care and adoption families.

### **3.10.2 Vendor Response: Pre-Licensure and Renewal of Kinship Families**

- Describe how the vendor will meet the above requirements and ensure the family is contacted on time and all required information is gathered.
- Include in the response family engagement and information-gathering techniques to be used when completing the mutual assessment and home study process.

- Describe how the mutual assessment, background checks, and kinship home studies will be completed including family engagement techniques to be used during the process to gather necessary information.
- Describe how major milestones activities that result in a completed kinship home study will be monitored and tracked.
- Describe how staff will be assigned to families ensuring families have one contact for pre-licensure and post-licensure.
- Describe what efforts will occur to ensure that Kinship Home Studies are written consistently, thorough, professional, and completed within the required timeframe.
- Describe how the vendor will determine recommendations regarding kinship licensure to provide foster care and or approval for adoption.

### **3.11 Additional Required Meeting Participation**

Consultations/Staffing District meetings are held each month in the seven OLA districts to review and discuss inquiries, upcoming classes, class participation, pending home studies, licensed families, placement requests, and recruitment and retention efforts.

Monthly contract meetings with DSS management are also conducted to discuss inquiries, the status of participants becoming licensed including kinship families, upcoming class dates, the projected number of families that will become licensed that month, review of currently licensed families, and evaluation of post-service training.

#### **3.11.1 The selected vendor will be required to:**

- Ensure appropriate staff are prepared to share information during monthly district meetings.
- Participate in monthly contract meetings and share state-identified data elements related to the progress of each family in the pre-licensure process and post-licensure.
- As needed additional meetings with the State

#### **3.11.2 Vendor Response: Additional Required Meeting Participation**

- Describe how the vendor will ensure contracted staff are prepared to share required information during the monthly Consultations/Staffing district meetings.
- Identify who will participate in the monthly contract meetings.
- Provide an example of the data that will be shared at the monthly contract meetings or describe the data identifying where each family is at in the pre-licensure process and barriers to completion.

### **3.12 Systems and Reporting Requirements**

OLA is working with a contractor to configure a management information system to support foster care licensing and placement work. The expected release date will be sometime after June 1, 2025. The OLA system will support the application process, submission of background checks, tracking training completion, conducting inspections, drafting home-studies, managing foster family compliance/corrective action plans, and support communication between staff and families. Until the OLA system is in place, specific data elements related to licensure of foster families are captured/entered directly into FACIS.

The OLA system is not a Learning Management System (LMS) to deliver training to families. OLA is exploring the use of a State platform that is a limited LMS system to deliver, manage, and track completion of the NTDC curriculum. The selected Vendor will use the State platform or include in the proposal and bid a different LMS.

The State will also issue a state e-mail to all staff to support better collaboration and accessibility to calendars and other collaboration tools such as Teams.

The collection, review, and analysis of information and data is essential to evaluate progress, identify patterns and trends, inform future decisions, improve performance, and make predictions. Until the OLA system is in place, the vendor is responsible to track and report out required data.

### 3.12.1 The selected vendor will be required to:

- Use state issued e-mail address and outlook calendar
- Use their own system(s) to collect and track all data outlined in the reporting requirements section until the OLA system for foster care licensing is completed.
- Allow state access to the vendor's system or provide a monthly excel report with agreed upon data fields.
- Use the OLA system to support licensing foster families after the OLA system for foster care licensing is completed.
- Monthly, provide a list of Foster and Adoptive Parent Training participants to the State. The following data is required to be captured for all families in the training process: Date Invited to Class, Accepted into Class, Declined Invite to Class, All Class Dates, and Completion of Class Dates.
- Monthly, provide the State a list of all families (kinship & basic foster families) including in the pre-licensure process and status as to where each family is at in the process. The process starts when a family indicates interest in learning more about becoming a licensed foster family through the submission of an initial home study to the State. The following data is required to be captured: Name, Inquiry Type, Status, Date Request was made, First Contact Date, Referral Source, Barriers to Completion, Inquiry Date, Home Visit Dates (1-3), Application Date, 100 days from Application for basic foster care, 30 days from Application for all Kinship and ICPC families, Submission Date.
- Post Licensure data-track all licensed families, renewals, support given, and trainings offered.
- Placement data – track all placement requests and the outcome of the request
- Post Licensure Foster and Adoptive Parent Training- register and track participation in the training, gather feedback from training participants,
- Submit a “Quarterly Report to the Office of Licensing and Accreditation: The Quarterly report shall include the following data in the form of graphs and charts.
  - First Contacts & Inquiry Functions:
    - Number of total email and phone contacts completed with families requesting information, recruitment referral sources for each family contacted, and outcome of each family contacted.
    - Tracking of referral sources including “Learn More Card” submissions.
    - Number of families who have been invited to training by district and state totals.
    - Number and percentage of families who have been invited to training and have started training.
    - Number and percentage of families who have been invited to training but have not started training.
    - The average number of days from the inquiry to the date the family was invited to training.
    - The average number of days from when a family is invited to training and they begin training.
  - Foster and Adoptive Parent Training – Family Selection, Enrollment, and Training Outcomes:
    - Number of Families Invited to training and the outcome (accepted, declined, requested to wait, or on waiting list).
    - Number of resource families in training including kinship and ICPC resources and those who completed training requirements.
    - Number resource families who did not complete training and when they selected out of training (before training started, after training started, after session three.
    - Number and names of resource families who selected out and the reason(s) why

- Completed Home Studies
  - Number of completed home studies
  - Average number of days from application to home study completion.
- Training Sessions
  - Number of Foster and Adoptive Parent Training sessions to include location and dates of training sessions
  - Training by class and location or enrolled to complete 100% online
  - Evaluation feedback on the quality of training
- Kinship and Fictive Kinship Families:
  - Number of kinship families referred for licensing or adoption approval.
  - Number and percentage of kinship licensing home studies completed and approved.
  - Number and percentage of kinship licensing home studies denied
  - Number and percentage of kinship licensing home studies in progress.
  - Average number of days from referral to home-study submission (completion).
  - Average number of days from application to home-study submission (completion).

### **3.12.2 Vendor Response: Systems and Reporting Requirements**

- Describe the Vendor's system that will be used to support requirements outlined in the RFP.
- Provide examples of reports from previous work to demonstrate reporting capabilities and quality.
- Describe what metrics the Vendor will put in place to meet the performance the Service Level.

### **3.13 Service Level Agreement (SLA)**

The vendor will be required to meet the following service levels and performance metrics on a quarterly basis and include results in the quarterly report. The contract with the selected vendor may include negotiated performance-based incentives for reaching service levels outlined in the final agreement.

- All individuals who submit an inquiry will be contacted within 48 hours of the inquiry.
- 95% of all initial home-visits will take place within 14 days of the inquiry call.
- 95% of the applications must be signed before they begin training.
- 95% of the submitted home-studies must be submitted within 90 days from the application.
- 95% of renewals, excluding renewals that the family has requested an extension, must be completed 15 days before licensure expiration.

#### **3.13.1 Vendor Response: Systems and Reporting Requirements**

- Describe what metrics and/or actions the Vendor will put in place to meet the Service Level Agreements.

## **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 offeror's 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 (1<sup>st</sup> 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.

## **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**

<b>ANNUAL COST PERPOSAL TEMPLATE</b>	
<b>PERSONNEL COSTS</b>	<b>TOTAL</b>
Administrative	
Program Staff	
Support Staff	
Benefits	
Other	
<b>SUBTOTAL: PERSONNEL COSTS</b>	
<b>OPERATING COST</b>	
Insurance	
Travel	
Education Materials	
Staff Development and Education	
Other (Describe)	
<b>SUBTOTAL: OPERATING COST</b>	
<b>EQUIPMENT COSTS</b>	
Equipment and Supplies	
Printing/Publishing/Postage	
Telephone/Cell Phones/Internet	
Office Supplies	
Vehicle Cost and Maintenance	
Other (Describe)	
<b>SUBTOTAL: EQUIPMENT COSTS</b>	
<b>FOSTER CARE/ADOPTION TRAINING</b>	
Professional Services	
Other (DESCRIBE)	
<b>SUBTOTAL: FOSTER CARE/ADOPTION TRAINING</b>	
<b>OTHER COSTS (DESCRIBE)</b>	
<b>SUBTOTAL: OTHER COSTS</b>	
<b>TOTAL FUNDING REQUEST</b>	



**STATE OF SOUTH DAKOTA  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LICENSING AND ACCREDITATION**

**Consultant Contract  
For Consultant Services  
Between**

State of South Dakota  
Department of Social Services  
OFFICE OF LICENSING AND ACCREDITATION  
700 Governors Drive  
Pierre, SD 57501-2291

\_\_\_\_\_  
Referred to as Consultant

\_\_\_\_\_  
Referred to as State

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

1. CONSULTANT’S South Dakota Vendor Number is \_\_\_\_\_. Upon execution of agreement, Consultant will provide the State with Consultant’s Employer Identification Number or Federal Tax Identification Number.
2. PERIOD OF PERFORMANCE:
  - A. This Agreement shall be effective as of June 1, 2025 and shall end on May 31, 2026, 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 Consultant contract is:
    - 1.
    2. Does this Agreement involve Protected Health Information (PHI)? YES ( X ) NO ( )  
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 Consultant WILL ( ) WILL NOT ( X ) use state equipment, supplies or facilities.
    4. If WILL is indicated above, the following state equipment, supplies, or facilities will be used.
  - B. The Consultant agrees to perform the following services (add an attachment if needed):
    - 1.
  - C. The State agrees to:
    - 1.
    2. Make payment for services upon satisfactory completion of services and receipt of bill. Payment will be in accordance with SDCL 5-26-2.
    3. Will the State pay Consultant expenses as a separate item?

YES ( ) NO ( X )

If YES, expenses submitted will be reimbursed as identified in this Agreement.

D. The TOTAL CONTRACT AMOUNT will not exceed \$ .

4. BILLING:

Consultant agrees to submit a bill for services within (30) days following the month in which services were provided. Consultant will prepare and submit a monthly bill for services. Consultant 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 Consultant and to assist in the correction of problem areas identified by the State's monitoring activities.

6. LICENSING AND STANDARD COMPLIANCE:

The Consultant 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 Consultant 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 Consultant's failure to ensure the safety of all individuals served is assumed entirely by the Consultant.

7. ASSURANCE REQUIREMENTS:

(For Federally funded contracts only). The Consultant 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 consultants, 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 Consultant 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. Consultant 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:

Consultant 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:

Consultant (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, Consultant 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 Consultant 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 Consultant 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 Consultant 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 Consultant'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 Consultant's established record retention policies.

All payments to the Consultant 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 Consultant.

12. WORK PRODUCTS:

Consultant 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 Consultant 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 Consultant 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 Consultant 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 Consultant at the time of termination may be adjusted to cover any additional costs to the State as a result of Consultant'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 Consultant and it is determined that the Consultant was not at fault, then Consultant 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 by 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 day written notice. Consultant 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 Consultant 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. SUPERSESION:

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](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 Consultant, 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. SUBCONSULTANTS:**

Consultant may not use subconsultants to perform the services described herein without the express prior written consent of the State. Consultant will include provisions in its subcontracts requiring its subconsultants 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. Consultant will cause its subconsultants, 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. Consultant 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:**

Consultant 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 losses or equitable relief that may arise at least in part as a result of an act or omission in performing services under this Agreement. Consultant 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. Consultant's obligation to indemnify includes the payment of attorney fees and other costs of defense. In defending the State of South Dakota, its officers, agents, and employees, Consultant 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 Consultant, engage attorneys and other professionals to defend the State of South Dakota, its officers, agents, and employees, or to assist Consultant in the defense. This section does not require Consultant to be responsible for or defend against claims or proceedings for damages, liabilities, losses 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, Consultant shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

**A. Commercial General Liability Insurance:**

Consultant 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:**

Consultant 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:**

Consultant 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:

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

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

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

Consultant 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. Consultant 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:

Consultant 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 Consultant 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 Consultant by the State and all information, regardless of its format, obtained by Consultant through the provisions of services as contemplated by this Agreement. Consultant, and any person or entity affiliated with Consultant 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. Consultant, and any person or entity affiliated with Consultant 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 consultants 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. Consultant, and any person or entity affiliated with Consultant 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. Consultant, and any person or entity affiliated with Consultant 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 Consultant or to any person or entity affiliated with Consultant; (ii) was known to Consultant, or to any person or entity affiliated with Consultant, 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 Consultant, or by any person or entity affiliated with Consultant, without the benefit or influence of the State's information; or (v) becomes known to Consultant, or to any person or entity affiliated with Consultant, 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. Consultant understands that this information may be confidential and protected under state or federal law. Consultant 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, Consultant 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.

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

Consultant 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.

Consultant 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, Consultant agrees to return to the State, at Consultant's cost, any Confidential Information or documentation maintained by Consultant regarding the services provided hereunder in a format readily useable by the State as mutually agreed by Consultant and State.

29. REPORTING PROVISION:

Consultant 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 Consultant, or the State of South Dakota or its officers, agents or employees to liability. Consultant shall report any such event to the State immediately upon discovery.

Consultant'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. Consultant'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 Consultant to report any event to law enforcement or other entities under the requirements of any applicable law.

30. 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").

31. 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).

32. FUNDING AGREEMENT AND "RIGHTS TO INVENTION":

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the Consultant 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 Consultant 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.

33. 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.

34. 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.

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. AUTHORITY TO EXECUTE:

Consultant represents and warrants that:

- A. Consultant 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 Consultant and no approval, authorization or consent of any governmental or regulatory agency is required to be obtained in order for Consultant to enter into this Agreement and perform its obligations under this Agreement;
- C. Consultant is duly authorized to conduct business in and is in good standing in each jurisdiction in which Consultant will conduct business in connection with this Agreement; and
- D. Consultant 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 Consultant's performance of the services. Consultant will maintain all required certifications, licenses, permits, and authorizations during the term of this Agreement at its own expense.



38. AUTHORIZED SIGNATURES:

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

NO SIGNATURE REQUIRED AT THIS TIME

\_\_\_\_\_  
Consultant Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Consultant 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

Consultant Program Contact Person \_\_\_\_\_  
Phone \_\_\_\_\_  
Consultant Program Email Address \_\_\_\_\_

Consultant Fiscal Contact Person \_\_\_\_\_  
Phone \_\_\_\_\_  
Consultant Fiscal Email Address \_\_\_\_\_

SDCL 1-24A-1 states that a copy of all consulting contracts shall be filed by the State agency with the State Auditor within five days after such contract is entered into and finally approved by the contracting parties. For further information about consulting contracts, see the State Auditor's policy handbook.

**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

# ATTACHMENT B

## 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.

## **Bureau of Information and Telecommunications Required IT Contract Terms**

**Any contract resulting from this RFP will include the State's required IT terms and conditions as listed below, along with any additional terms and conditions as negotiated by the parties. Due to the changing landscape of IT security and data privacy, the State reserves the right to add additional IT terms and conditions or modify the IT terms and conditions listed below to the resulting contract:**

Pursuant to South Dakota Codified Law § 1-33-44, the Bureau of Information and Telecommunications ("BIT") oversees the acquisition of office systems technology, software, and services; telecommunication equipment, software, and services; and data processing equipment, software, and services for departments, agencies, commissions, institutions, and other units of state government. As part of its duties as the Executive Branch's centralized IT agency, BIT requires the contract terms and conditions of this Attachment C. For purposes of this Attachment, [Vendor Name] will be referred to as the "Vendor."

It is understood and agreed to by all parties that BIT has reviewed and approved only this Exhibit. Due to the ever-changing security and regulatory landscape in IT and data privacy, before renewal of this Agreement BIT must review and approve the clauses found in this Exhibit as being the then current version of the clauses and if any additional required clauses are needed. Changes to clauses in this Exhibit must be approved in writing by all parties before they go into effect and a renewal of this Agreement is possible.

The Parties agree, when used in this Exhibit, the term "Vendor" will mean the Vendor and the Vendor's employees, subcontractors, agents, assigns, and affiliated entities.

### **Section I. Confidentiality of Information**

For purposes of this paragraph, "State Proprietary Information" will include all information disclosed to the Vendor by the State. The Vendor will not disclose any State Proprietary 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. The Vendor must not: (i) disclose any State Proprietary Information to any third person unless otherwise specifically allowed under this Agreement; (ii) make any use of State Proprietary Information except to exercise rights and perform obligations under this Agreement; (iii) make State Proprietary Information available to any of its employees, officers, agents, or third party consultants except those who have a need to access such information and who have agreed to obligations of confidentiality at least as strict as those set out in this Agreement. The Vendor is held to the same standard of care in guarding State Proprietary Information as it applies to its own confidential or proprietary information and materials of a similar nature, and no less than holding State Proprietary Information in the strictest confidence. The Vendor must 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. The Vendor agrees to return all information received from the State to the State's custody upon the end of the term of this Agreement, unless otherwise

agreed in a writing signed by both parties. State Proprietary Information will not include information that:

- A. was in the public domain at the time it was disclosed to the Vendor,
- B. was known to the Vendor without restriction at the time of disclosure from the State,
- C. that was disclosed with the prior written approval of State's officers or employees having authority to disclose such information,
- D. was independently developed by the Vendor without the benefit or influence of the State's information, and
- E. becomes known to the Vendor without restriction from a source not connected to the State of South Dakota.

State's Proprietary Information can include names, social security numbers, employer numbers, addresses and other data about applicants, employers or other clients to whom the State provides services of any kind. The Vendor understands that this information is confidential and protected under State law. The Parties mutually agree that neither of them nor any subcontractors, agents, assigns, or affiliated entities will disclose the contents of this Agreement except as required by applicable law or as necessary to carry out the terms of the Agreement or to enforce that Party's rights under this Agreement. The Vendor acknowledges that the State and its agencies are public entities and thus may be bound by South Dakota open meetings and open records laws. It is therefore not a breach of this Agreement for the State to take any action that the State reasonably believes is necessary to comply with South Dakota open records or open meetings laws.

## **Section II. Rejection or Ejection of Vendor**

The State, at its option, may require the vetting of any of the Vendor, and the Vendor's subcontractors, agents, Assigns, or affiliated entities. The Vendor is required to assist in this process as needed.

The State reserves the right to reject any person from participating in the project or require the Vendor to remove from the project any person the State believes is detrimental to the project or is considered by the State to be a security risk. The State will provide the Vendor with notice of its determination, and the reasons for the rejection or removal if requested by the Vendor. If the State signifies that a potential security violation exists with respect to the request, the Vendor must immediately remove the individual from the project.

## **Section III. Non-Disclosure and Separation of Duties**

The Vendor will enforce separation of job duties and require non-disclosure agreements of all staff that have or can have access to State Data or the hardware that State Data resides on. The Vendor will limit staff knowledge to those staff who duties that require them to have access to the State Data or the hardware the State Data resides on.

## **Section IV. Audit Requirements**

The Vendor warrants and agrees it is aware of and complies with all audit requirements relating to the classification of State Data the Vendor stores, processes, and accesses. Depending on the data classification, this may require the Vendor to grant physical access to the data hosting facilities to the State or a federal agency. The Vendor will notify the State of any request for physical access to a facility that hosts or processes State Data by any entity other than the State.



## **Section V. Threat Notification**

A credible security threat consists of the discovery of an exploit that a person considered an expert on Information Technology security believes could be used to breach any aspect of a system that is holding State Data or a product provided by the Vendor. Upon becoming aware of a credible security threat with the Vendor's product(s) and or service(s) being used by the State, the Vendor or any subcontractor supplying product(s) or service(s) to the Vendor needed to fulfill the terms of this Agreement will notify the State within two business days of any such threat. If the State requests, the Vendor will provide the State with information on the threat.

## **Section VI. Adverse Event**

The Vendor must notify the State contact within three days if the Vendor becomes aware that an Adverse Event has occurred. An Adverse Event is the unauthorized use of system privileges, unauthorized access to State Data, execution of malware, physical intrusions and electronic intrusions that may include network, applications, servers, workstations, and social engineering of staff. If the Adverse Event was the result of the Vendor's actions or inactions, the State can require a risk assessment of the Vendor the State mandating the methodology to be used as well as the scope. At the State's discretion a risk assessment may be performed by a third party at the Vendor's expense. State Data is any data produced or provided by the State as well as any data produced or provided for the State by a third-party.

## **Section VII. Background Investigations**

The State requires any person who writes or modifies State-owned software, alters hardware, configures software of State-owned technology resources, has access to source code or protected Personally Identifiable Information (PII) or other confidential information, or has access to secure areas to undergo fingerprint-based background investigations. These fingerprints will be used to check the criminal history records of both the State of South Dakota and the Federal Bureau of Investigation. These background investigations must be performed by the State with support from the State's law enforcement resources. The State will supply the fingerprint cards and prescribe the procedure to be used to process the fingerprint cards. Project plans should allow 2-4 weeks to complete this process.

If work assignments change after the initiation of the project covered by this Agreement so that a new person will be writing or modifying State-owned software, altering hardware, configuring software of State-owned technology resources, have access to source code or protected PII or other confidential information, or have access to secure areas, background investigations must be performed on the individual who will complete any of the referenced tasks. The State reserves the right to require the Vendor to prohibit any person from performing work under this Agreement whenever the State believes that having the person performing work under this Agreement is detrimental to the project or is considered by the State to be a security risk, based on the results of the background investigation. The State will provide the Vendor with notice of this determination.

## **Section VIII. Data Location and Offshore Services**

The Vendor must provide its services to the State as well as storage of State Data solely from data centers located in the continental United States. The Vendor will not provide access to State Data to any entity or person(s) located outside the continental United States that are not named in this Agreement without prior written permission from the State. This restriction also applies to

disaster recovery; any disaster recovery plan must provide for data storage entirely within the continental United States.

### **Section IX. Vendor Training Requirements**

The Vendor, Vendor's employee(s), and Vendor's subcontractors, agents, assigns, affiliated entities and their employee(s), must successfully complete, at the time of hire and annually thereafter, a cyber-security training program. The training must include but is not limited to:

- A. legal requirements for handling data,
- B. media sanitation,
- C. strong password protection,
- D. social engineering, or the psychological manipulation of persons into performing actions that are inconsistent with security practices or that cause the divulging of confidential information,
- E. security incident response, and
- F. Protected Health Information.

### **Section X. Use of Portable Devices**

The Vendor must prohibit its employees, agents, affiliates, and subcontractors from storing State Data on portable devices, including personal computers, except for devices that are used and kept only at the Vendor's data center(s). All portable devices used for storing State Data must be password protected and encrypted.

### **Section XI. Remote Access**

The Vendor will prohibit its employees, agents, affiliates, and subcontractors from accessing State Data remotely except as necessary to provide the services under this Agreement and consistent with all contractual and legal requirements. The accounts used for remote access cannot be shared accounts and must include multifactor authentication. If the State Data that is being remotely accessed is legally protected data or considered sensitive by the State, then:

- A. The device used must be password protected,
- B. The data is not put onto mobile media (such as flash drives),
- C. No non-electronic copies are made of the data, and
- D. A log must be maintained by the Vendor detailing the data which was accessed, when it was accessed, and by whom it was accessed.

The Vendor must follow the State's data sanitization standards, as outlined in this Agreement's Data Sanitization clause, when the remotely accessed data is no longer needed on the device used to access the data.

### **Section XII. Rights, Use, and License of and to State Data**

The parties agree that all rights, including all intellectual property rights, in and to State Data will remain the exclusive property of the State. The State grants the Vendor a limited, nonexclusive license to use the State Data solely for the purpose of performing its obligations under this Agreement. This Agreement does not give a party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in the Agreement.

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

- A. The Vendor will implement and maintain appropriate administrative, technical, and organizational security measures to safeguard against unauthorized access, disclosure, use, or theft of Personally Identifiable Information (PII), data protected under the Family Educational Rights and Privacy Act (FERPA), Protected Health Information (PHI), Federal Tax Information (FTI), or any information that is confidential under applicable federal, state, or international law, rule, regulation, or ordinance. Such security measures will be in accordance with recognized industry practice and not less protective than the measures the Vendor applies to its own non-public data.
- B. The Vendor will not copy, disclose, retain, or use State Data for any purpose other than to fulfill its obligations under this Agreement.
- C. The Vendor will not use State Data for the Vendor's own benefit and will not engage in data mining of State Data or communications, whether through automated or manual means, except as specifically and expressly required by law or authorized in writing by the State through a State employee or officer specifically authorized to grant such use of State Data.