

CONTRACT

This contract is made and entered into by and between the named parties. In accordance with the purposes stated herein, it is hereby agreed as follows:

STATE:

CONTRACTOR:

State of Colorado for the use & benefit of the
Department of Human Services
Division of Early Care and Learning
1575 Sherman St., 1st Floor
Denver, Co 80203

The City and County of Denver
200 West 14th Avenue
Denver, CO 80202

CONTRACT MADE DATE:

03/06/2015

CONTRACTOR'S ENTITY TYPE:

Government

PO/SC ENCUMBRANCE NUMBER:

PO IHA

CONTRACTOR'S STATE OF INCORPORATION:

Colorado

TERM:

This contract shall be effective upon approval by the State Controller, or designee, or on 07/01/2015, whichever is later. The contract shall end on 06/30/2016.

BILLING STATEMENTS RECEIVED:

Monthly

STATUTORY AUTHORITY:

C.R.S. § 26-1-111

CONTRACT PRICE NOT TO EXCEED:

\$566,362.00

MAXIMUM AMOUNT AVAILABLE PER FISCAL YEAR:

FY 15: \$566,362.00

PROCUREMENT METHOD:

Exempt

PRICE STRUCTURE:

Fixed Price

BID/RFP/LIST PRICE AGREEMENT NUMBER:

Not Applicable

FUND SOURCE - NAME OF FEDERAL PROGRAM/GRANT AND FUNDS ID#

LAW SPECIFIED VENDOR STATUTE:

Not Applicable

STATE REPRESENTATIVE:

David Collins, Director
Division of Early Care and Learning
1575 Sherman St., 1st Floor
Denver, CO 80203

CONTRACTOR REPRESENTATIVE:

Robert McDonald, Manager
City and County of Denver
200 W. 14th Avenue
Denver, CO 80202

SCOPE OF WORK:

In accordance with the provisions of this contract and its exhibits and attachments, the Contractor shall: Provide the following functions: Original licensure, renewals, complaints, and Stage IIs investigations for Family Child Care Homes, School-Age Programs, Child Care Centers located in Denver County.

EXHIBITS:

The following exhibits are hereby incorporated:

| | |
|------------|---|
| Exhibit A- | Statement of Work |
| Exhibit B- | Assigning Risk Factors |
| Exhibit C- | Complaint Risk Factor |
| Exhibit D- | Stage II Investigation Response Time Guidelines |
| Exhibit E- | Contract Request for Reimbursement |
| Exhibit F- | Staff Qualifications |
| Exhibit G- | Request For Information Contract Cost Analysis |
| Exhibit H- | HIPPA Business Associate addendum |
| Exhibit I- | Privacy Insurance |
| Exhibit J- | Option Letter Provision |
| Exhibit K- | Option Letter Sample |
| Exhibit L- | Time Certification Form |
| Exhibit M- | Budget |
| Exhibit N- | Additional Provisions |

COORDINATION:

The State warrants that required approval, clearance and coordination has been accomplished from and with appropriate agencies.

APPROVAL:

In no event shall this contract be deemed valid until it shall have been approved by the State Controller or his/her designee.

PROCUREMENT:

This contractor has been selected in accordance with the requirements of the Colorado Procurement Code.

PRICE PROVISIONS:

Payments pursuant to this contract shall be made as earned, in whole or in part, from available funds, encumbered for the purchase of the described services and/or deliverables. The liability of the State at any time for such payments shall be limited to the encumbered amount remaining of such funds.

Authority exists in the laws and funds have been budgeted, appropriated and otherwise made available, and a sufficient unencumbered balance thereof remains available for payment.

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

The Contractor understands and agrees that the State shall not be liable for payment for work or services or for costs or expenses incurred by the Contractor prior to the proper execution and State Controller approval of this contract.

GENERAL PROVISIONS

The following clauses apply to this contract:

- A. Governmental Immunity/Limitation of Liability: Notwithstanding anything herein to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the "Colorado Governmental Immunity Act", C.R.S. §24-10-101, *et seq.*, as now or hereinafter amended. The parties understand and agree that the liability of the State for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of C.R.S. §24-10-101, *et seq.*, as now or hereafter amended and the risk management statutes, C.R.S. §24-30-1501, *et seq.*, as now or hereafter amended. Any liability of the State created under any other provision of this contract, whether or not incorporated herein by reference, shall be controlled by, limited to, and otherwise modified so as to conform with, the above cited laws.
- B. Federal Funds Contingency: Payment pursuant to this contract, if in federal funds, whether in whole or in part, is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. In the event that said funds, or any part thereof, become unavailable, as determined by the State, the State may immediately terminate this contract or amend it accordingly.
- C. Billing Procedures: The State shall establish billing procedures and requirements for payment due the Contractor in providing performance pursuant to this contract. The Contractor shall comply with the established billing procedures and requirements for submission of billing statements. The State shall comply with CRS 24-30-202(24) when paying vendors upon receipt of a correct notice of the amount due for goods or services provided hereunder.
- D. Exhibits- Interpretation: Unless otherwise stated, all referenced exhibits are incorporated herein and made a part of this contract. And, unless otherwise stated, in the event of conflicts or inconsistencies between this contract and its exhibits or attachments, such conflicts shall be resolved by reference to the

documents in the following order of priority: 1) the Special Provisions of this contract shall always be controlling over other provisions in the contract or amendments; 2) the contract "cover" pages; 3) the General Provisions of this contract; 4) the exhibits to this contract, except that any exhibit entitled: "Modifications to the General Provisions" shall take priority over the General Provisions of this contract.

- E. Notice and Representatives: For the purposes of this contract, the representative for each party is as designated herein. Any notice required or permitted may be delivered in person or sent by registered or certified mail, return receipt requested, to the party at the address provided, and if sent by mail it is effective when posted in a U.S. Mail Depository with sufficient postage attached thereto. Notice of change of address or change of representative shall be treated as any other notice.
- F. Contractor Representations:
1. Licenses and Certifications: The Contractor certifies that, at the time of entering into this contract, it and its agents have currently in effect all necessary licenses, certifications, approvals, insurance, etc. required to properly provide the services and/or supplies covered by this contract in the state of Colorado. Proof of such licenses, certifications, approvals, insurance, etc. shall be provided upon the State's request. Any revocation, withdrawal or nonrenewal of necessary license, certification, approval, insurance, etc. required for the Contractor to properly perform this contract, shall be grounds for termination of this contract by the State.
 2. Qualification: Contractor certifies that it is qualified to perform such services or provide such deliverables as delineated in this contract.
 3. Exclusion, Debarment and/or Suspension: Contractor represents and warrants that Contractor, or its employees or authorized subcontractors, are not presently excluded from participation, debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or otherwise ineligible to participate in a "federal health care program" as defined in 42 U.S.C. § 1320a-7b(f) or in any other government payment program by any federal or State of Colorado department or agency. In the event Contractor, or one of its employees or authorized subcontractors, is excluded from

participation, or becomes otherwise ineligible to participate in any such program during the Term, Contractor will notify the State in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to Contractor, the State reserves the right to immediately cease contracting with Contractor.

4. Work Performed Outside the United States or Colorado, pursuant to C.R.S. §24-102-206: The Contractor certifies all work performed under this Contract, including any subcontracts, is anticipated to be and will be performed within the United States or Colorado, unless otherwise specified in the Statement of Work. If work under this Contract is anticipated to be or will be performed outside the United States or Colorado, the countries and/or states where work will be performed, and the reasons it is necessary or advantageous to go outside the United States or Colorado to perform the work are also specified in the Statement of Work.

- G. Legal Authority: The Contractor warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and bind the Contractor to its terms. The person(s) executing this contract on behalf of the Contractor warrant(s) that such person(s) have full authorization to execute this contract.

- H. Indemnification: Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

[Applicable Only to Intergovernmental Contracts] No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended.

- I. Insurance: Contractor and its Subcontractors shall obtain and maintain insurance as specified in this

section at all times during the term of this Contract. All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Contractor and the State.

1. Contractor

- a. Public Entities: If Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), then Contractor shall maintain at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Contractor shall show proof of such insurance satisfactory to the State, if requested by the State. Contractor shall require each contract with a Subcontractor that is a public entity, to include the insurance requirements necessary to meet such Subcontractor's liabilities under the GIA.

- b. Non-Public Entities: If Contractor is not a "public entity" within the meaning of the GIA, Contractor shall obtain and maintain during the term of this Contract insurance coverage and policies meeting the same requirements set forth in provision 1.2 below with respect to Subcontractors that are not "public entities".

2. Contractors – Subcontractors

Contractor shall require each contract with Subcontractors other than those that are public entities, providing Goods or Services in connection with this Contract, to include insurance requirements substantially similar to the following:

- a. Worker's Compensation: Worker's Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Contractor or Subcontractor employees acting within the course and scope of their employment.

- b. General Liability: Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- (a) \$1,000,000 each occurrence;
- (b) \$1,000,000 general aggregate;
- (c) \$1,000,000 products and completed operations aggregate; and

(d) \$50,000 any one fire.

If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, Subcontractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish to Contractor a certificate or other document satisfactory to Contractor showing compliance with this provision.

- c. Automobile Liability: Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.
- d. Professional Liability: Professional liability insurance with minimum limits of liability of not less than \$1,000,000, unless waived by the State.
- e. Privacy Insurance
If this Contract includes a HIPAA Business Associates Addendum exhibit, Contractor shall obtain and maintain during the term of this Contract liability insurance covering all loss of Protected Health Information data and claims based upon alleged violations of privacy rights through improper use or disclosure of Protected Health Information with a minimum annual limit of \$1,000,000.
- f. Additional Insured: The State shall be named as additional insured on all Commercial General Liability and Automobile Liability Insurance policies (leases and construction contracts require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent) required of Contractor and any Subcontractors hereunder.
- g. Primacy of Coverage: Coverage required of Contractor and Subcontractor shall be primary over any insurance or self-insurance program carried by Contractor or the State.
- h. Cancellation: The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 30 days prior notice to Contractor and Contractor shall forward such notice to the State in accordance with provision E. Notice and Representatives within seven days of Contractor's receipt of such notice.
- i. Subrogation Waiver: All insurance policies in any way related to this Contract and secured and maintained by Contractor or its Subcontractors as required herein shall

include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Contractor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

3. Certificates: Contractor and all Subcontractors shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Contract. No later than 15 days prior to the expiration date of any such coverage, Contractor and each Subcontractor shall deliver to the State or Contractor certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Contract or any subcontract, Contractor and each Subcontractor shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this provision I.

J. Disaster Planning and Pandemic Outbreaks: The State may require the Contractor to submit a Disaster Response Plan (Plan) to ensure the delivery hereunder of essential government services during a disaster, declared emergency, and/or pandemic outbreak. The Plan would take precedence over and nullify any contractual provision relating to force majeure or "Acts of God." Accordingly, should the work performed by the Contractor under this contract include the provision of any essential government services, the State may request a Plan from the Contractor, and, upon such request, the Contractor shall forthwith submit a Plan, and the Contractor shall be bound to perform hereunder in accordance therewith.

K. Rights in Data, Documents and Computer Software or Other Intellectual Property:

All intellectual property including without limitation, databases, software, documents, research, programs and codes, as well as all, reports, studies, data, photographs, negatives or other documents, drawings or materials prepared by the contractor in the performance of its obligations under this contract shall be the exclusive property of the State. Unless otherwise stated, all such materials shall be delivered to the State by the contractor upon completion, termination, or cancellation of this contract. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than the performance of the contractor's obligations under this contract without a prior written consent of the State. All documentation,

accompanying the intellectual property or otherwise, shall comply with the State requirements which include but is not limited to all documentation being in a paper, human readable format which is useable by one who is reasonably proficient in the given subject area.

- L. Proprietary Information: Proprietary information for the purpose of this contract is information relating to a party's research, development, trade secrets, business affairs, internal operations and management procedures and those of its customers, clients or affiliates, but does not include information lawfully obtained by third parties, which is in the public domain, or which is developed independently.

Neither party shall use or disclose directly or indirectly without prior written authorization any proprietary information concerning the other party obtained as a result of this contract. Any proprietary information removed from the State's site by the Contractor in the course of providing services under this contract will be accorded at least the same precautions as are employed by the Contractor for similar information in the course of its own business.

- M. Records Maintenance, Performance Monitoring & Audits: The Contractor shall maintain a complete file of all records, documents, communications, and other materials that pertain to the operation of the program/project or the delivery of services under this contract. Such files shall be sufficient to properly reflect all direct and indirect costs of labor, materials, equipment, supplies and services, and other costs of whatever nature for which a contract payment was made. These records shall be maintained according to generally accepted accounting principles and shall be easily separable from other Contractor records.

The Contractor shall protect the confidentiality of all records and other materials containing personally identifying information that are maintained in accordance with this contract. Except as provided by law, no information in possession of the Contractor about any individual constituent shall be disclosed in a form including identifying information without the prior written consent of the person in interest, a minor's parent, guardian, or the State. The Contractor shall have written policies governing access to, duplication and dissemination of, all such information and advise its agents, if any, that they are subject to these confidentiality requirements. The Contractor shall provide its agents, if any, with a copy or written explanation of these confidentiality

requirements before access to confidential data is permitted.

The Contractor authorizes the State, the federal government or their designee, to perform audits and/or inspections of its records, at any reasonable time, to assure compliance with the state or federal government's terms and/or to evaluate the Contractor's performance. Any amounts the State paid improperly shall be immediately returned to the State or may be recovered in accordance with other remedies.

All such records, documents, communications, and other materials shall be the property of the State unless otherwise specified herein and shall be maintained by the Contractor, for a period of three (3) years from the date of final payment or submission of the final federal expenditure report under this contract, unless the State requests that the records be retained for a longer period, or until an audit has been completed with the following qualification. If an audit by or on behalf of the federal and/or state government has begun but is not completed at the end of the three (3) year period, or if audit findings have not been resolved after a three (3) year period, the materials shall be retained until the resolution of the audit findings.

The Contractor shall permit the State, any other governmental agency authorized by law, or an authorized designee thereof, in its sole discretion, to monitor all activities conducted by the Contractor pursuant to the terms of this contract. Monitoring may consist of internal evaluation procedures, reexamination of program data, special analyses, on-site verification, formal audit examinations, or any other procedures as deemed reasonable and relevant. All such monitoring shall be performed in a manner that will not unduly interfere with contract work.

- N. Taxes: The State, as purchaser, is exempt from all federal excise taxes under Chapter 32 of the Internal Revenue Code [No. 84-730123K] and from all state and local government use taxes [C.R.S. §39-26-114(a) and 203, as amended]. The contractor is hereby notified that when materials are purchased for the benefit of the State, such exemptions apply except that in certain political subdivisions the vendor may be required to pay sales or use taxes even though the ultimate product or service is provided to the State. These sales or use taxes will not be reimbursed by the State.

- O. Conflict of Interest: During the term of this contract, the Contractor shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the Contractor fully performing his/her obligations under this contract.

Additionally, the Contractor acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interests of the State. Thus, the Contractor agrees to refrain from any practices, activities or relationships which could reasonably be considered to be in conflict with the Contractor's fully performing his/her obligations to the State under the terms of this contract, without the prior written approval of the State.

In the event that the Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, the Contractor shall submit to the State a full disclosure statement setting forth the relevant details for the State's consideration and direction. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict shall be grounds for termination of the contract.

Further, the Contractor shall maintain a written code of standards governing the performance of its agent(s) engaged in the award and administration of contracts. Neither the Contractor nor its agent(s) shall participate in the selection, or in the award or administration of a contract or subcontract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

1. The employee, officer or agent;
2. Any member of the employee's immediate family;
3. The employee's partner; or
4. An organization which employees, or is about to employ, any of the above,

has a financial or other interest in the firm selected for award. Neither the Contractor nor its agent(s) will solicit nor accept gratuities, favors, or anything of monetary value from Contractor's potential contractors, or parties to subagreements.

- P. Conformance with Law: The Contractor and its agent(s) shall at all times during the term of this contract strictly adhere to all applicable federal laws, state laws, Executive Orders and implementing regulations as they currently exist and may hereafter be amended. Without limitation, these federal laws and regulations include:

- Age Discrimination Act of 1975, 42 U.S.C. Section 6101 et seq. and its implementing regulation, 45 C.F.R. Part 91;
- Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 et seq.;
- Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 et seq.;
- The Drug Free Workplace Act of 1988, 41 U.S.C. 701 et seq.;
- Equal Pay Act of 1963, 29 U.S.C. 206;
- Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq. and implementing regulations, 45 C.F.R. Parts 160 and 164;
- Immigration Reform and Control Act of 1986, 8 U.S.C. 1324b;
- Pro-Children Act of 1994, 20 U.S.C. 6081 et seq.;
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84;
- Titles VI & VII of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) & (e);
- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 USC 604a, PL 104-193. See also State Executive Order D 015 00;
- Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq.;
- The Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Rule), at 45 CFR, Part 92;
- The Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Non-Profit Organizations, and Commercial Organizations (Common Rule), at 2 CFR 215;
- Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.
- The Hatch Act (5 USC 1501-1508) and Civil Service Reform Act, Public Law 95-454 Section 4728.
- Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1990, PL 101-166, Section 511.
- 45 CFR Subtitle A, Department of Health and Human Services regulations.
- The Single Audit Act Amendments of 1996, 31 USC 7501, Public Law 104-156, OMB Circular A-133, and 45 CRF 74.26.
- The Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-

282), as amended by §6062 of Public Law 110-252, including without limitation all data reporting requirements required thereunder. This Act is also referred to as FFATA.

- The American Recovery and Reinvestment Act of 2009 (Public Law 111-5), including without limitation all data reporting requirements required thereunder. This Act is also referred to as ARRA.

Q. Restrictions on Public Benefits: Pursuant to House Bill 06S-1023, as codified at C.R.S. § 24-76.5-101 et seq., except as otherwise provided therein or where exempt by federal law, the State is required to verify the lawful presence in the United States of each natural person 18 years of age or older who applies for state or local public benefits or for federal public benefits for the applicant. Accordingly, should the work performed by the Contractor under this contract include the provision of any of said benefits to any natural person 18 years of age or older who applies therefore for the applicant, the Contractor shall follow the requirements of said law in the provision of said benefits as if it were the State. The State will provide the Contractor with specific instruction on the identification documentation required and the process to be followed by the Contractor to properly comply with the law if the work done under this contract is subject to these requirements.

R. Statewide Contract Management System:

1. When Applicable. If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this provision applies.
2. Governing State Statutes. Contractor agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state contracts and inclusion of contract performance information in a statewide contract management system.
3. Performance Evaluation and Review. Contractor's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Contract, State law (including without limitation CRS §24-103.5-101), and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Contractor's performance shall be part of the normal contract administration process and Contractor's performance will be systematically recorded in the statewide

Contract Management System. Areas of Evaluation and Review shall include without limitation quality, cost and timeliness. Collection of information relevant to the performance of Contractor's obligations under this Contract shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Contractor's obligations hereunder. Such performance information shall be entered into the statewide Contract Management System at intervals during the term hereof determined appropriate by the State, and a final Evaluation, Review and Rating shall be rendered by the State within 30 days of the end of the Contract term. Contractor shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

4. Gross Failure to Meet Performance Measures. Should the final performance Evaluation and Review determine that Contractor demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Department of Human Services, for good cause shown, may debar Contractor and prohibit Contractor from bidding on future contracts. Contractor may contest the final Evaluation and Review and Rating by: (a) filing rebuttal statement(s), which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Contractor by the Executive Director upon showing of good cause.
5. CORA Disclosure: To the extent not prohibited by federal law, this Contract and the performance measures and standards under CRS §24-103.5-101 are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

S. Performance Ratings and Guidelines:

The Contractor will be given a Final Contractor Performance Evaluation at the end of the contract term in accordance with C.R.S. §24-102-205(6) and General Provision R. above. The list of available Performance Ratings, along with

guidelines for what final rating will be given, are as follows:

1. Above Standard: This rating may be given where Contractor consistently performs in a manner that exceeds the requirements of this Contract, and where such performance is measurable against objective factors specifically identified for use in achieving the purposes of this provision. If applicable to work performed under this Contract, the objective factors and performance required to merit an "Above Standard" rating are specified in a so dedicated Exhibit to this Contract, which may be included herein from the start of the contract or subsequently be added by formal contract amendment at any time before the end of the contract term. If there is no such dedicated Exhibit included or subsequently added herein, this rating is unavailable.
 2. Standard: This rating will be given where: 1.) Contractor's performance hereunder meets the requirements of this Contract in areas of quality, cost, and timeliness; 2.) Contractor's work is accepted by the State; and 3.) full payment hereunder is made to Contractor for such performance.
 3. Below Standard: This rating may be given where Contractor materially fails to perform the requirements of this Contract and such failure results in the State's invocation of contract remedies and/or contract termination in accordance with General Provision X. below.
- T. Discrimination: The Contractor during the performance of this contract shall:
1. not discriminate against any person on the basis of race, color, national origin, age, sex, religion and handicap, including Acquired Immune Deficiency Syndrome (AIDS) or AIDS related conditions.
 2. not exclude from participation in, or deny benefits to any qualified individual with a disability, by reason of such disability.
- Any person who thinks he/she has been discriminated against as related to the performance of this contract has the right to assert a claim, Colorado Civil Rights Division, C.R.S. §24-34-302, et seq.
- U. Criminal Background Check: Pursuant to C.R.S. §27-90-111 and Department of Human Services Policy VI-2.4, any independent contractor, and its agent(s), who is designated by the Executive Director or the Executive Director's designee to be
- a contracting employee under C.R.S. §27-90-111, who has direct contact with vulnerable persons in a state-operated facility, or who provides state-funded services that involve direct contact with vulnerable persons in the vulnerable person's home or residence, shall:
1. submit to a criminal background check, and
 2. report any arrests, charges, or summonses for any disqualifying offense as specified by C.R.S. §27-90-111 to the State.
- Any Contractor or its agent(s), who does not comply with C.R.S. §27-90-111 and DHS Policy VI-2.4, may, at the sole discretion of the State, be suspended or terminated.
- V. Litigation: The Contractor shall within five (5) calendar days after being served with a summons, complaint, or other pleading which has been filed in any federal or state court or administrative agency notify the State that it is a party defendant in a case which involves services provided under this contract. The Contractor shall deliver copies of such document(s) to the State's Executive Director. The term "litigation" includes an assignment for the benefit of creditors, and filings in bankruptcy, reorganization and/or foreclosure.
- W. Disputes: Except as herein specifically provided otherwise, disputes concerning the performance of this contract which cannot be resolved by the designated contract representatives shall be referred in writing to a senior departmental management staff designated by the department and a senior manager designated by the Contractor. Failing resolution at that level, disputes shall be presented in writing to the Executive Director and the Contractor's chief executive officer for resolution. This process is not intended to supersede any other process for the resolution of controversies provided by law.
- X. Remedies: Acceptance is dependent upon completion of all applicable inspection procedures. The State reserves the right to inspect the goods and/or services provided under this contract at all reasonable times and places. The Executive Director of the State or her/his designee may exercise the following remedial actions should s/he find the Contractor substantially failed to satisfy the scope of work found in this contract. Substantial failure to satisfy the scope of work shall be defined to mean substantially insufficient, incorrect or improper activities or inaction by the Contractor. Without limitation, the State has the right to:
1. withhold payment until performance is cured,

2. require the vendor to take necessary action to ensure that the future performance conforms to contract requirements,
3. request removal of a Contractor's agent from contract work,
4. equitably reduce the payment due the vendor to reflect the reduced value of the services performed,
5. recover payment for work that due to the Contractor cannot be performed or would be of no value to the State,
6. modify or recover payments (from payments under this contract or other contracts between the State and the vendor as a debt due to the State) to correct an error due to omission, error, fraud and/or defalcation,
7. terminate the contract.

These remedies in no way limit the remedies available to the State in the termination provisions of this contract, or remedies otherwise available at law.

Y. Termination:

1. Termination for Default: The State may terminate the contract for cause. If the State terminates the contract for cause, it will first give ten (10) days prior written notice to the Contractor, stating the reasons for cancellation, procedures to correct problems, if any, and the date the contract will be terminated in the event problems have not been corrected. In the event this contract is terminated for cause, the State will only reimburse the Contractor for accepted work or deliverables received up to the date of termination. In the event this contract is terminated for cause, final payment to the Contractor may be withheld at the discretion of the State until completion of final audit. Notwithstanding the above, the Contractor may be liable to the State for the State's damages. If it is determined that the Contractor was not in default then such termination shall be treated as a termination for convenience as described herein.
2. Termination for Convenience: The State shall have the right to terminate this contract by giving the Contractor at least twenty (20) days prior written notice. If notice is so given, this contract shall terminate on the expiration of the specified time period, and the liability of the parties hereunder for further performance of the terms of this contract shall thereupon cease, but the parties shall not be released from the duty to perform their obligations up to the date of termination.

3. Immediate Termination: This contract is subject to immediate termination by the State in the event that the State determines that the health, safety, or welfare of persons receiving services may be in jeopardy. Additionally, the State may immediately terminate this contract upon verifying that the Contractor has engaged in or is about to participate in fraudulent or other illegal acts.
4. Termination for Financial Exigency: The State shall have the right to terminate this contract for financial exigency by giving the Contractor at least thirty (30) days prior written notice. For the purposes of this provision, a financial exigency shall be a determination made by the Colorado legislature or its Joint Budget Committee that the financial circumstances of the State are such that it is in the best interest of the State to terminate this contract. If notice of such termination is so given, this contract shall terminate on the expiration of the time period specified in the notice, and the liability of the parties hereunder for further performance of the terms of this contract shall thereupon cease, but the parties shall not be released from the duty to perform their obligations up to the date of termination.

In the event that the State terminates this contract under the Termination for Convenience or Termination for Financial Exigency provisions, the Contractor is entitled to submit a termination claim within ten (10) days of the effective date of termination. The termination claim shall address and the State shall consider paying the following costs:

- a. the contract price for performance of work, which is accepted by the State, up to the effective date of the termination.
- b. reasonable and necessary costs incurred in preparing to perform the terminated portion of the contract
- c. reasonable profit on the completed but undelivered work up to the date of termination
- d. the costs of settling claims arising out of the termination of subcontracts or orders, not to exceed 30 days pay for each subcontractor
- e. reasonable accounting, legal, clerical, and other costs arising out of the termination settlement.

In no event shall reimbursement under this clause exceed the contract amount reduced by

amounts previously paid by the State to the Contractor.

- Z. Venue: The parties agree that venue for any action related to performance of this contract shall be in the City and County of Denver, Colorado.

AA. Understanding of the Parties:

1. Complete Understanding: This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to the State Fiscal Rules. Descriptive headings as used herein are for convenience and shall not control or affect the meaning or construction of any provision of this contract.
2. Severability: To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.
3. Benefit and Right of Action: Except as herein specifically provided otherwise, it is expressly understood and agreed that this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. All rights of action relating to enforcement of the terms and conditions shall be strictly reserved to the State and the named Contractor. Nothing contained in this agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the State and the Contractor that any such person or entity, other than the State or the Contractor, receiving services or benefits under this agreement shall be deemed an incidental beneficiary only.
4. Waiver: The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.
5. Survival: The State and the Contractor's obligations under this contract shall survive following termination or expiration to the extent

necessary to give effect to the intent and understanding of the parties.

6. Subcontracting: Except as herein specifically provided otherwise, the duties and obligations of the Contractor arising hereunder cannot be assigned, delegated, subgranted or subcontracted except with the express prior written consent of the State. The subgrants and subcontracts permitted by the State shall be subject to the requirements of this contract. The Contractor is responsible for all subcontracting arrangements, delivery of services, and performance of any subgrantor or subcontractor. The Contractor warrants and agrees that any subgrant or subcontract, resulting from its performance under the terms and conditions of this contract, shall include a provision that the said subgrantor or subcontractor shall abide by the terms and conditions hereof. Also, the Contractor warrants and agrees that all subgrants or subcontracts shall include a provision that the subgrantor or subcontractor shall indemnify and hold harmless the State. The subgrants or subcontractors must be certified to work on any equipment for which their services are obtained.

BB. Holdover: In the event that the State desires to continue the services provided for in this Contract and a replacement contract has not been fully executed by the expiration date of the Contract, this Contract may be extended unilaterally by the State for a period of up to two (2) months upon written notice to the Contractor under the same terms and conditions of the original Contract including, but not limited to, prices, rates, and service delivery requirements. However, this extension terminates when the replacement contract becomes effective when signed by the State Controller or an authorized delegate.

CC. Health Insurance Portability & Accountability Act of 1996 ("HIPAA"). Federal law and regulations governing the privacy of certain health information requires a "Business Associate Contract" between the State and the Contractor. 45 C.F.R. Section 164.504(e). If applicable to this Contract, attached and incorporated herein by reference and agreed to by the parties is a HIPAA Business Associate Addendum for HIPAA compliance. Terms of the Addendum shall be considered binding upon execution of this contract and shall remain in effect during the term of the contract including any extensions.

DD. Colorado Department of Human Services (CDHS) Fraud Policy. The CDHS Fraud Policy addresses the need for effective and consistent measures for preventing, detecting, and deterring fraud. The relevant parties discussed in the policy include CDHS employees, CDHS management, CDHS appointees, and community partners, including contractors, grantees, vendors, and other sub-recipients. CDHS employees, clients, and community partners will all benefit from an effective fraud prevention, detection, and deterrence policy because fraud can damage the reputation and public trust of CDHS.

All appointees and employees of the CDHS must comply with the standards of conduct set forth in Title 24, Article 18 of the Colorado Revised Statutes, known as the Code of Ethics, including exposing corruption or impropriety in government, whenever discovered. The CDHS Fraud Policy outlines how the CDHS employees and community partners should report fraud and how fraud will be investigated once it is reported.

The full text of the CDHS Fraud Policy, which Contractor hereby agrees to be subject to and abide by, can be found on the CDHS Fraud Policy and Training web page at: <http://www.colorado.gov/cs/Satellite/CDHS-Emp/CBON/1251610724004>.

EE. Performance Outside the State of Colorado and/or the United States: Not applicable if Contract Funds include any federal funds] Following the Effective Date, Contractor shall provide written notice to the State, in accordance with General Provision E. (Notices and Representatives), within 20 days of the earlier to occur of Contractor's decision to perform, or its execution of an agreement with a Subcontractor to perform, Services outside the State of Colorado and/or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado and/or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations. All notices received by the State pursuant to this requirement shall be posted on the Colorado Department of Personnel & Administration's website. Knowing failure by Contractor to provide notice to the State under this requirement shall constitute a material breach of this Contract

EF. C-Stat - Performance Based Program Analysis and Management Strategy (C-Stat Strategy): For the sole purpose of providing support to the State's

internal C-Stat Strategy, the parties understand and agree that upon request from the State, and without any additional cost to the State, the Contractor shall collect, maintain, and provide to the State certain contract performance data determined by the State during the term hereof to assist the State to measure and assess the programmatic effectiveness of the Contractor's performance hereunder, all in support of the State's internal continuous quality improvement working towards positive outcomes and managing its performance for the betterment of all Colorado residents.

The parties understand and agree that the exercise of the requirements of this provision shall not be used by the State to effect unilateral changes to the performance requirements of the Contractor hereunder.

SPECIAL PROVISIONS

These Special Provisions apply to all contracts except where noted in *italics*.

- 1. CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
- 2. FUND AVAILABILITY. CRS §24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
- 3. GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
- 4. INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.
- 5. COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
- 6. CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
- 7. BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
- 8. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
- 9. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial

interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [*Not Applicable to intergovernmental agreements*] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

11. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [*Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services*] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101. Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

Revised 1-1-09

City signs first.

Contract Routing Number 16 IHA 77591

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

*** Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.**

| | |
|---|--|
| <p align="center">CONTRACTOR</p> <p align="center">Legal Name of Contractor</p> <p>By: Name of Authorized Individual Title: Official Title of Authorized Individual</p> <hr/> <p align="center">*Signature</p> <p>Date: _____</p> | <p align="center">STATE OF COLORADO</p> <p align="center">John W. Hickenlooper, GOVERNOR</p> <p align="center">Department of Human Services Reggie Bicha, Executive Director</p> <hr/> <p align="center">By: Nikki Hatch, Deputy Executive Director of Operations</p> <p>Date: _____</p> |
| <p align="center">2nd Contractor Signature if Needed</p> <p>By: Name of Authorized Individual Title: Official Title of Authorized Individual</p> <hr/> <p align="center">*Signature</p> <p>Date: _____</p> | <p align="center">LEGAL REVIEW</p> <p align="center">John W. Suthers, Attorney General</p> <p>By: _____</p> <p align="center">Signature - Assistant Attorney General</p> <p>Date: _____</p> |

ALL CONTRACTS REQUIRE APPROVAL by the STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

| |
|---|
| <p>STATE CONTROLLER</p> <p>Robert Jaros, CPA, MBA, JD</p> <p>By: _____</p> <p align="center">Clint Woodruff / Valri Gimple</p> <p>Date: _____</p> |
|---|

Contract Control Number: ENVHL-201521228-00

Contractor Name: State of Colorado

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

D. Scott Martinez, Attorney for the
City and County of Denver

By _____

By _____

By _____



REQUIREMENTS / STATEMENT OF WORK

The Contractor shall: Perform the following functions regarding the original licensure, renewals, complaints and Stage II investigations for Family Child Care Homes, School-Age Programs, Child Care Centers and Children's Resident Camps located in Denver County.

A. Statement of Work

1. The Contractor shall perform the following functions regarding the original licensure of facilities located in Denver County:
 - a. Dissemination of information regarding the licensing process, the rules governing facilities and the legal requirement to be licensed.
 - b. Compilation of all documentation or licensure required by the State (Colorado Department of Human Services);
 - c. Prescheduled inspection of the entire premises of prospective facilities within 60 days of applicant's application being received in the State office.
 - d. Investigation of the applicant and all residents and employees of the applicant's facility including any investigation required by the State to determine the suitability of the applicant and the facility for licensure.
 - e. Completion of a typed report of inspection in a manner prescribed by the State within 3 days of completing the inspection. The report of inspection must indicate the licensing recommendation for those licenses that are approved, information about the license type, capacity, age of children for whom the facility is to be licensed, and any restrictions or exhibits that apply to the license. Submit report of inspection and the applicant's response within 2 weeks of receiving a response from the applicant.
 - f. Completion and submission of all relevant investigations and other required reports by the State and in a manner prescribed by the State within two weeks of completing the inspection and investigation and receiving a response from the applicant, as required. Examples of possible types of requirements are background investigations, zoning, health inspection, and fire inspection.
2. The Contractor shall perform the following functions related to the investigation of allegations of illegally operating, unlicensed facilities located in Denver County:
 - a. Investigation of each and every complaint alleging or involving the operation of illegally operating unlicensed facilities. Such investigation shall include an unannounced visit to the facility, interviews necessary to determine whether the operation is such that a license is required under the Child Care Licensing Act, Colorado Code of Regulations, and the service of

Exhibit A

a cease and desist order to those facilities found in violation of the law along with the following information: an order form to obtain an application package available from the Colorado State Forms and Publication Center, 4200 Garfield Street, Denver, Colorado 80216-6517, and where the application and rules and regulations can be accessed at www.coloradoofficeofearlychildhood.com.

- b. Investigation into each and every facility issued a cease and desist order to insure compliance which may include other unannounced visits to the facility, interviews and surveillance if an application is not received within forty-five days of issuance of the order as required by the State.
 - c. Completion and timely submission of all reports and referrals required by the State and in a manner prescribed by the State.
3. The Contractor shall perform the following functions regarding the renewal licensure of facilities located in Denver County:
- a. Dissemination of information regarding the renewal licensing process including the rules governing facilities and the legal requirement to be licensed.
 - b. Compilation of all documentation for renewal licensure required by the State.
 - c. Initiation of the renewal process by an unannounced inspection of the entire facility premises including review of all records required to be maintained by the facility.
 - d. Investigation of the applicant and all residents and employees of the applicant's facility including any investigation required by the State to determine the suitability of the applicant and the facility for licensure.
 - e. Completion and timely submission of all other reports and referrals required by the State and in a manner prescribed by the State within two weeks of completing the inspection and investigation and receiving a response from the applicant, as required. Examples of possible types of requirements are zoning, health inspection, and fire inspection. Report of Inspection, Stage II reports, Complaint reports, Critical Incidents, Provider responses, other reports required by rule for the facility type.
4. The Contractor shall perform those functions regarding the continuation of permanent licensure of facilities located in Denver County:
- a. Unannounced visitation of facilities on a permanent license to perform a review of the facility's operation to monitor compliance with applicable laws, rules and regulations at least once every eighteen months or according to the time frame associated with the facility's Department assigned risk factor or by current Division's Standard Operating Procedures or policy.
 - b. Completion of a typed report of inspection in a manner prescribed by the State at the time of inspection. If unable to complete the report at the time of

Exhibit A

inspection the report will be provided to the licensee within 3 days of completing the inspection. Submit report of inspection and the provider's response within 2 weeks of receiving a response from the provider.

- c. Completion and timely submission of all reports and referrals required by the State and in manner prescribed by the State within two weeks of completing the inspection and investigation and receiving a response from the provider, as required. Examples of possible types of requirements are background investigations, health inspections, and fire inspections. Report of Inspection, Stage II reports, Complaint reports, Critical Incidents, Provider responses, other reports required by rule for the facility type.
5. The Contractor shall perform the following functions related to the supervision of licensed facilities located in Denver County:
 - a. Unannounced visitation of facilities on probationary licenses at least every 30 days as required by the State or as required by the probationary license; and
 - b. Completion of a typed report of inspection in a manner prescribed by the State at the time of inspection. If unable to complete the report at the time of inspection the report will be provided to the licensee within 3 days of completing the inspection. Submit report of inspection and the provider's response within 2 weeks of receiving a response from the provider.
 - c. Completion and timely submission of all reports and referrals required by the State and in manner prescribed by the State within two weeks of completing the inspection and investigation and receiving a response from the provider, as required. Examples of possible types of requirements are background investigations, health inspections, fire inspections, report of inspection, stage II reports, complaint reports, critical incidents, provider responses, other reports required by rule for the facility type.
 6. The Contractor shall perform the following functions related to the investigation of complaints in licensed facilities located in Denver County:
 - a. Investigation of each and every complaint alleging or involving licensing violations regarding any licensed facility for which the Contractor is responsible for inspecting under the terms of this Contract in accordance with the time frames outlined in Exhibit C or Division's current Standard Operating Procedure or policy. Such investigations will include an unannounced visit to the facility and conducting sufficient interviews necessary to determine if a violation has occurred. Any visit to the facility to investigate a complaint shall be unannounced and conducted as a supervisory visit as set forth in paragraph 3 of this section. The supervisory visit will be conducted as a general walk through of the facility and completion of the key core standards.
 - b. Identifying information related to those persons making complaints regarding licensed facilities shall be kept confidential according to C.R.S., 26-6-107.5.

Exhibit A

- c. Completion of a typed complaint report of inspection in a manner prescribed by the State at the time of inspection. If unable to complete the report at time of inspection the report will be provided to the licensee within 3 days of completing the inspection. Submit report of inspection and the provider's response within 2 weeks of receiving a response from the provider.
 - d. Completion and timely submission of all reports and referrals required by the State and in manner prescribed by the State within two weeks of completing the inspection and investigation and receiving a response from the provider, as required.
7. The Contractor will perform the following functions related to Stage II investigations (a child care licensing investigation following a child abuse investigation) concerning licensed facilities located in Denver County:
 - a. Review of each and every child abuse/neglect investigation involving any licensed facility for which the Contractor is responsible for inspecting under the terms of this Contract.
 - b. A Stage II investigation is necessary to conclude if licensing violations have occurred.
 - c. Completion of the Stage II investigation in accordance with the time frames outlined in Exhibit D or by current Division's Standard Operating Procedure or policy.
 - d. Completion of a typed Stage II investigation report of inspection at time of inspection. If unable to complete the report of inspection the report will be provided to the licensee within 3 days of completing the inspection. Submit report of inspection and the provider's response within 2 weeks of receiving a response from the provider.
 - e. Completion and timely submission of the entire Stage II packet required by the State and in manner prescribed by the State within two weeks of completing the inspection and investigation and receiving a response from the provider, as required.
8. The Contractor shall perform the following functions regarding the submission of negative licensing recommendations for facilities located in Denver County:
 - a. Compilation of all necessary documentation for a recommendation for negative licensing.
 - b. Initiation of the negative licensing process by completing and submitting in a timely manner a negative licensing recommendation as required by the State and in a manner prescribed by the State.
 - c. Unannounced visitation to facilities for which a negative licensing recommendation has been made for suspension, revocation, fines or probation at least every 30 days or in a manner prescribed by the State.
 - d. Completion and submission of a typed investigation report and the report of inspection, in a manner prescribed by the State, to the licensing supervisor

Exhibit A

assigned responsibility for the case immediately following the negative licensing monitoring visit.

9. The Contractor shall submit copies of all original reports, records and documentation regarding facilities to the State in a timely manner and in a method as prescribed by the Division's Standard Operating Procedure. The Contractor will maintain a record of all original documents and make these documents available to the State upon request.
10. The Contractor will use only those forms required and approved for current use by the State in carrying out the functions set forth in this contract including, but not limited to, the Report of Inspection, the Key Core Indicator Inspection Report, Staff and Children's records forms, Report of Inspection Response form, Verification of Compliance form.
11. The Contractor will provide the licensees a copy of any reports prepared by the contractor or its employees as a result of any inspection or investigation done under the terms of this Contract. The Contractor further shall inform licensees of their right to request a waiver of any rule which creates an undue hardship on the licensee or which s/he believes has been too stringently applied by the Contractor or the State as provided in 12 CCR 2509-8, at 7.701.13. The Contractor further will provide the licensees a copy of the current State Waiver/Appeal form and to instruct the licensees how to submit the waiver request directly to the State.
12. The Contractor will perform its obligations hereunder in conformity with the Child Care Licensing Act, other relevant state laws and all regulations promulgated pursuant thereto; including, without limitation, the Colorado Human Services Code, Sections 26-1-101, et seq., C.R.S., as all the foregoing are in effect as of the date of execution of this Contract, and as they may later be amended.
13. The Contractor will complete 100% of all unannounced inspections of facilities on a permanent or probationary license to perform a review of the facility's operation to monitor compliance with applicable laws, rules and regulations on time according to the time frame associated with the facility's Department assigned risk factor. For any inspection not completed on time a report must be submitted explaining the reason for the inspection not being completed in a timely manner. If a minimum completion rate of 96% is not met or there is not a Department approved justifiable reason for not completing the inspection the Contractor must submit a written action plan outlining how the required inspections will be performed on time.
14. The Contractor will complete all severity one complaints received by the Department within 48 hours respective of the facilities normal operating hours.
15. The Contractor will complete 100% of all severity two, three, four and five complaints received by the Department within the prescribed timelines in accordance with the Division's current Standard Operating Procedures. For any complaint investigations not completed on time a report must be submitted explaining the reason for the inspection not completed on time. If a minimum completion rate of 95% is not met or there is not a Department approved justifiable reason for not completing the investigation the Contractor must submit a written action plan outlining how the required investigations will be performed on time.

Exhibit A

16. The Contractor will assure that licensees and persons interested in licensure have appropriate and timely access to services. The Contractor will facilitate the application process for interested parties and respond within 48 hours to all inquiries regarding licensure.
17. The Contractor shall process paperwork in a timely and accurate manner in accordance with the Division's current Standard Operating Procedures to promote timely service to providers and parents. The Contractor shall submit signed reports and assure adequate documentation.
18. The Contractor agrees to submit a report to the State bi-annually in January and June outlining information for a contract cost analysis as outlined in Exhibit G
19. The Contractor must employ a minimum of 7.5 full time equivalent licensing representatives with no less than 6 full time equivalent caseload carrying licensing specialists to fulfill the requirements of this contract. The Contractor must submit on the bi-annual information for cost analysis report (Exhibit G) the percentage of time each employee spends completing this contract work. Employee and contract supervisor(s) must complete and submit a time certification form as outlined in exhibit L on a monthly basis. This certifies that they have spent the correct percentage of time as specified in exhibit G working exclusively on this contract program area.
20. The Contractor agrees that all new licensing specialists employed by the Contract will meet at least the same minimum educational and experience requirements as required by the State defined in Exhibit F.
21. The Contractor agrees to maintain caseload distribution as prescribed by the State. The Contractor agrees to inform the State of any changes to personnel to ensure proper caseload distribution.
22. The Contractor agrees that any employee acting under the terms of the Contract may be contacted directly by State personnel for the purposes of conducting State business. The State Contract Liaison will be the primary person responsible for communication.
23. The State agrees that all personnel issues reported to State personnel regarding Contract employees will be referred to the Contract supervisor/administrator.
24. Requests for information between the State and the Contractor will be responded to within 48 hours when permissible. Identified urgent requests will be responded to as soon as possible but no more than 24 hours. If requests are not responded to within appropriate time frames the person seeking the information shall follow up and escalate the request to ensure a response is made.
25. The Contractor agrees that any employee acting under the terms of this Contract or his/her supervisor shall be available to testify in any legal proceeding brought for the purposes of enforcing the Child Care Licensing Act.
26. The Contractor agrees that all employees of the Contractor acting under the terms of this Contract will attend any required training sessions offered by the State and that the information provided at those sessions will be incorporated into the procedures used to carry out the terms of this Contract.

Exhibit A

27. The Contractor agrees that all employees of the Contractor acting under the terms of this Contract will attend any required meetings offered by the State including but not limited to, monthly liaison meetings, monthly Division meetings and Office of Early Childhood meetings and any new protocols introduced in these meeting will be adhered to.
28. The Contractor agrees to maintain a complete file of all records, documents, communications and other materials, which pertain to this agreement for a period of three (3) years from the date a final payment is made under this agreement, unless the department requests the records be maintained for a longer period.
29. The Contractor will permit Department and Federal agency monitoring and auditing of records and activities, which are or have been undertaken pursuant to this agreement.
30. Except as otherwise provided, the duties and obligation of the contractor shall not be assigned, delegated, or sub contracted except with the express prior written consent of the Department. All subcontractors will be subject to the requirements of this agreement.
31. Except as otherwise stated, this agreement shall inure to the benefit of and be binding only upon the parties hereto and their respective successor and assigns. No third party beneficiary rights or benefits of any kind are expressly or impliedly provided herein.
32. Any failure of either party to perform in accordance with the terms of this agreement shall constitute a breach of the agreement. Any dispute concerning the performance of this agreement shall first be resolved at the Divisional level. Failing resolution at that level, disputes shall be presented to the Executive Directors of each Department for resolution. Failing resolution by the Executive Directors, the dispute shall be submitted in writing by both parties to the State Controller, whose decision on the dispute shall be final.

**DIVISION OF EARLY CARE AND LEARNING
STANDARD OPERATING PROCEDURE**

No. R-2

SUBJECT: Assigning Risk Factors
Effective Date: September 2002

Revision Date: January 6, 2006
Revision Date: August 7, 2007
Revision date: May 3, 2011
Revision Date: January 22, 2013

Issued by: Terry Santi
Licensing Administrator

APPROVED BY:



Terry L. Santi, Licensing Administrator

2/12/15

DATE

Risk factors must be assigned and visits scheduled to child care facilities using established automatic time frames. The Licensing Specialist should schedule frequency of visits to a facility using the below-mentioned criteria and timeframes. Caseloads should be reviewed and visit codes adjusted to ensure that visits occur during the months a facility/ program will be in operation, i.e. pre-school, camps, summer programs. (See R-1 Risk Factor SOP for additional guidance).

ONE MONTH- A:

- Probation only

SIX MONTHS- B:

- Provisional
- A facility that requires intense technical assistance prior to adverse action.

ONE YEAR (12 MONTHS) - C:

- Facility that recently moved from probationary to permanent status.
- Facility that had multiple violations at last licensing visit including serious health and safety violations such as hazardous materials within reach of children.
- Facility with consistent violations during licensing visits; large amounts of complaints both substantiated and unsubstantiated.
- Facility with serious complaints within last few years.
- Facility with large number of serious violations at every supervisory and renewal visit in last 2 years. Five (5) complaints within 3 months period of

time. Although complaints were unfounded, other serious violations were documented during complaint visit.

- Facility with several substantiated complaints in the past year; numerous violations during last supervisory visit.
- Facility with numerous complaints over a period of time; some substantiated and some unsubstantiated. Numerous violations during last supervisory visit.
- Drop-in child care center that had many appeals. Unusual and unique program setting.

ONE AND ONE-HALF YEARS (18 MONTHS) - D:

- Facility that has been licensed less than 3 years seems to be in need of a lot of technical assistance.
- A facility with a minimal number of complaints.
- A facility that is accredited and has non-safety related regulation issues as documented during supervisory visits.

TWO YEAR (24 MONTHS) - E:

- Resident camp accredited by American Camping Association, however, numerous violations during last supervisory visit.
- A facility with minimal number of complaints, stage II's or incident/ injury reports.
- Resident Camp with strong oversight by board of directors. Had some violations at last supervisory visit, (non-safety related).
- A facility that is accredited or that has a 3-4 star quality rating and has violations for non-safety related regulation issues as documented during the supervisory visits.

TWO AND ONE- HALF YEARS, (30 MONTHS) - F:

- A facility with no major complaints against center and no major violations noted.
- A facility in process of accreditation or a quality rating; Center is regularly in compliance with licensing regulations.
- A facility with no current substantiated complaints. Minimal number of violations of regulations noted at last supervisory visit. Items noted were not serious in nature.

THREE YEARS, (36 MONTHS) - G:

- Facilities licensed 10 or more years and have no substantiated complaints, no substantiated child abuse investigations and have rarely had any violations noted during supervisory or renewal visits.
- A facility that is nationally accredited or has a 4 star quality rating; has no substantiated complaints; has no substantiated child abuse investigations and minimal number of licensing violations at last supervisory visit where the items were not serious in nature.
- Change must be justified and backed up with approval form in scanning or change the visit code back to previous code; visit or discussion needed if no documentation of justification on file.

THREE AND ONE-HALF YEARS. (42 MONTHS)-H:

- Meets item #1 or #2 of 36 month criteria.
- Emergency circumstances warrant change; Critical reduction in resources or staff exists.
- Reasons must be clearly documented on variable visit code change form and scanned with **Supervisor approval & Administrative notification.**
- Can be used only **one time** and then must be returned to **prior** visit code.
- If **Founded** stage 1 or **Founded** complaint investigations, visit code will be returned to **prior** visit code at minimum.

FOUR YEARS. (48 MONTHS) - I:

- Meets **ALL** 36 month criteria.
- Emergency circumstances warrant change; critical reduction in resources or staff exists.
- Based on program operation, unique schedule i.e. camps that do not operate regularly.
- Reasons must be clearly documented on variable visit code change form and scanned with **Supervisor approval & Administrative notification.**
- Can be used only **one time** and then must be returned to **prior** visit code.
- If **Founded** stage 1 or **Founded** complaint investigations, visit code will be returned to **prior** visit code at minimum.

| | |
|--|-----------|
| DIVISION OF CHILD CARE STANDARD OPERATING PROCEDURE | No. C-5__ |
| SUBJECT: Complaint Investigation Risk Factor Guidelines for Child Care Centers/Agencies | |
| Effective Date: September 1998 | |
| Revision Date: January 7, 2007 | |
| Issued by: Dana Andrews Licensing Administrator | |

APPROVED BY: *RA* 8/30/07
 ROSEMARIE ALLEN, DIRECTOR DATE

This SOP has been developed to provide guidelines for determining the severity level in response to complaints. If you have uncertainty about how to assign the severity level or the guidelines do not adequately address the complaint description, consult a licensing supervisor. The guidelines for investigating complaints are as follows:

| LEVEL | CATEGORY | TIMEFRAME TO INVESTIGATE | DESCRIPTION |
|-------|--|---|--|
| 0 | CHILD ABUSE IMMINENT DANGER TO CHILDREN | Report to police or Protective Services immediately | Child abuse and Neglect allegations, including sexual abuse, children totally unsupervised, hospitalization or death of a child. These allegations are not investigated by licensing or monitoring specialists. |
| 1 | Very Serious AN INDIVIDUAL CHILD OR OTHER CHILDREN MAY BE IN DANGER | On-site inspection within 48 hours Effective 7/1/2000 <i>Unless asked by a county DHS and/or law enforcement to participate in their investigations. Licensing/Monitoring involvement should only ensue immediately after those investigations are completed.</i> | <ol style="list-style-type: none"> 1. Gross violation of ratios in infant and toddler rooms (e.g. double the number of children for what the ratio should be; 1:10 or more toddlers OR 1:6 or more infants). 2. Double the number of children for which the family child care home is licensed (e.g. 8 or more in an infant toddler home, 16 or more in a regular family child care home, 24 or more in a large family child care home, or 14 or more in an ECCP). 3. Children abandoned or overlooked at a location away from the child care facility; or left unsupervised in a vehicle without adult supervision; or wandering away from the physical premises of the facility onto city or other private property; lost child for which local police or protective services are notified. 4. Domestic violence occurring while children are in care; failure to report child abuse due to internal investigation by facility and/or staff. |

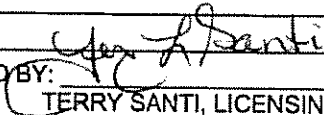
| | | | |
|---|---------|------------------|--|
| | | | <ol style="list-style-type: none"> 5. Provider under the influence of alcohol or drugs and ability impaired to provide care for children at the time the complaint is made. 6. Swimming accident; drowning or near drowning 7. Unlocked weapons accessible to children 8. Severe injury to child (e.g. fall off trampoline or high piece of equipment. 9. Unexplained serious injury to an infant or toddler (not including minor scratches or bruises) 10. Severe injury because of another violation |
| 2 | Serious | 0-7 working days | <p>Would include:</p> <ol style="list-style-type: none"> 1. Gross violation of ratios in child care centers (e.g. double the number of children for what the ratio should be, 1:20 or more preschoolers, 1:30 or more school-ages; any other ratio violation for toddlers or infants) 2. In family child care home double the number of infants allowed by regulation (e.g. 4 under one in an infant toddler home, or 4 under 2 in a regular family child care home, or 4 under two in a large family child care home, or 5 or more under two in an ECCP). 3. Serious physical injury (e.g. any injury to a child's eye, broken bones, bites that break the skin); child hospitalized 4. Failing to obtain emergency medical care for a child 5. Caring for infants or toddlers in a child care center without a license for such care. 6. Provider or staff person under the influence of drugs or alcohol and ability impaired to care for children. 7. When requested by the health department possible outbreak of communicable disease. 8. Medication, drugs or alcohol left within children's reach. 9. Unlicensed Care involving a fatality 10. Staff providers or family members charged with any felony or child abuse for which DCC has not received prior notification. 11. For 24 hour care facilities where children are not getting adequate food. 12. Child abuse referrals not accepted by county department of social services. |

| | | | |
|---|----------|---------------------|---|
| 3 | Moderate | 0 – 17 working days | <p>Would include:</p> <ol style="list-style-type: none"> 1. Ratio violations 2. Inadequate numbers of staff 3. Unqualified staff or unqualified and/or under-age family member caring for children 4. Lack of supervision 5. Inappropriate discipline, including rough handling or yelling at children or inappropriate isolation of children; child abuse/neglect such as preferential or differential treatment, or inappropriate isolation. 6. Inappropriate staff boundaries, including preferential or differential treatment of children 7. Unsafe equipment or furnishings 8. Building safety hazards 9. Unsafe transportation of children; too many children in a vehicle 10. Over enrollment 11. Unlicensed care with other allegations that would indicate a threat to the safety of the children (children unsupervised, large numbers of children in care, filthy conditions). 12. Complaints about adoption agencies. 13. Inadequate resilient surface 14. Violation of statute concerning ski areas 15. Child Care, Foster Home or 24-hour care facilities that are dirty or unsanitary to the level of being a health hazard 16. Infant or toddler's diaper not appropriately changed in day care or foster home. 17. Individual care plans for children are inadequate. 18. Failure to report child abuse observed as a result of an internal investigation of facility and/or staff. 19. Inadequate finances to operate a child care facility (e.g. staff checks bouncing) |
| 4 | Mild | 0 – 25 working days | <p>Would include:</p> <ol style="list-style-type: none"> 1. Children not getting enough or adequate food in less than 24 hour care facility 2. Inappropriate or inadequate rest period 3. Inadequate equipment or furnishings 4. Crying child/ren not attended to 5. Parents not notified of injury to child 6. Unlicensed care (also see level 2 & 3 above) 7. Inadequate policies or procedures or |

| | | | |
|---|------------------|-------------------------|---|
| | | | <p>not providing policies to parents</p> <p>8. Complaint about circumstances that occurred more than 4 months previous</p> |
| 5 | Very Mild | Within 60 business days | <p>Would include:</p> <ol style="list-style-type: none"> 1. Civil Rights issues involving children (religion, ADA, discrimination) 2. Poor business practices. |

Exhibit D

| | | |
|---|--|---------|
| DIVISION OF EARLY CARE AND LEARNING STANDARD OPERATING PROCEDURE | | No. S-2 |
| SUBJECT: Stage II Investigation Response Time Guidelines | | |
| Effective Date: July 2000 | | |
| Revision Date: January 6, 2006 | | |
| Revision Date: May 15, 2014 | | |
| Issued by: Terry Santi Licensing Administrator | | |

| | |
|--|---------|
| APPROVED BY:  | 2/12/15 |
| TERRY SANTI, LICENSING ADMINISTRATOR | DATE |

Licensing Specialists are required to follow the response time guidelines for Stage II investigations.

- A. Stage I Substantiated by county, Stage II must be completed within 20 business days
- B. Stage I Unsubstantiated by county, Stage II must be completed within 35 business days

A rapid response time may be necessary for alleged licensing violations that are very serious (example, summary suspension), check with your supervisor if you need guidance determining the response time.

Upon receipt of any Stage I report, the licensing specialist needs to **immediately** review the entire report to ascertain proper response time and potential licensing violations. The purpose of the Stage II investigation is to determine the administrative culpability of a facility where an alleged incident of abuse or neglect occurred. The licensing specialist will determine if problems identified through the investigation can be administratively addressed and or if adverse actions should occur.

If allegations are substantiated by the county or a ticket or summons is issued by law enforcement and/or serious licensing violations are found, the licensing specialist needs to ascertain if adverse licensing actions are necessary. The licensing specialist should coordinate with his or her supervisor as the proper action necessary.

Division of Early Care and Learning
Contractor Request for Reimbursement

| | | |
|---|------------------------|---|
| <u>Contractor Name</u> | <u>Contract Number</u> | <u>Project Title / Description</u> |
| <u>Authorized Official (Print Name)</u> | <u>Completed by</u> | <u>Phone number</u> |
| <u>Address</u> | <u>State</u> | <u>Report Expenditure Period (Start and end date)</u> |
| <u>Zip</u> | | |

Contract Amount _____ Contract Amount Remaining _____

| Budget Categories: | Budget | Expenditures requested for Reporting Period | Cumulative Expenditures |
|--------------------|--------|---|-------------------------|
| Personnel | | | |
| Fringe Benefits | | | |
| Travel | | | |
| Equipment | | | |
| Supplies | | | |
| Other (Identify) | | | |
| Other (Identify) | | | |
| TOTAL | \$ - | \$ - | \$ - |

I certify that the expenditures listed above were incurred and paid by this agency on behalf of the above identified project, and that adequate documentation in support of these expenses is and will be maintained for audit purposes. **Please attached more detail to explain above expenses if appropriate.**

Signature (Contract Director or Fiscal Agent)

Date Submitted

Mail Originals to: David Collins, Director
Division of Early Care and Learning
1575 Sherman Street, 1st Floor
Denver, CO 80203-1714

STATE OF COLORADO

Child Care Licensing Specialist

This position is open only to Colorado state residents.

Minimum Qualifications

Education: Graduation from a college or university with a bachelor's degree in Human Services, Sociology, Psychology, Early Childhood, Social Work, or closely related field.

Experience: Three years of professional experience working in a human services field in either a private or public entity, which includes working in the group care of children and in child care licensing, early childhood or related field.

Conditions of Employment:

Must possess and maintain a valid Colorado Driver's License.

Substitutions:

Professional work experience in group care of children, child care licensing, child protection or occupational field closely related to the work assignment which provided the same kind, amount, and level of knowledge acquired in the required education, may be substituted on a year-for-year basis for the bachelor's degree.

REQUEST FOR INFORMATION

Contract Cost Analysis

Please provide the current fiscal year information for the following:

1. Annual indirect charge paid to Administration from the contract.
2. Staff Salaries for all contract employees by title. Please include:
 - Percentage of Salary paid by the contract.
 - Hourly or Annual Salary rate.
 - Fringe benefit package including:
 - Total amount paid.
 - Percentage paid from contract.
 - List of benefits employee receives.
3. FTE utilized during current fiscal year. Please include:
 - Time period of staff vacancies.
 - Dollar amount of vacancy savings accrued.
 - Hiring costs
4. IT costs paid. Please include:
 - Hardware.
 - Software.
 - Support.
5. Utility Costs.
6. Office supplies.
7. Facility/Space Costs.
8. Bonuses, incentives, gatherings, food (please provide breakout by item).
9. Training.

HIPAA BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum (“Addendum”) is a part of the Contract dated 3/6/15 between the Department of Human Services, Division of Early Care and Learning and City and County of Denver, contract number 16-IHA-77591. For purposes of this Addendum, the State is referred to as “Covered Entity” or “CE” and the Contractor is referred to as “Associate”. Unless the context clearly requires a distinction between the Contract document and this Addendum, all references herein to “the Contract” or “this Contract” include this Addendum.

RECITALS

- A. CE wishes to disclose certain information to Associate pursuant to the terms of the Contract, some of which may constitute Protected Health Information (“PHI”) (defined below).
- B. CE and Associate intend to protect the privacy and provide for the security of PHI disclosed to Associate pursuant to this Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d – 1320d-8 (“HIPAA”) as amended by the American Recovery and Reinvestment Act of 2009 (“ARRA”)/HITECH Act (P.L. 111-005), and its implementing regulations promulgated by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160, 162 and 164 (the “HIPAA Rules”) and other applicable laws, as amended.
- C. As part of the HIPAA Rules, the CE is required to enter into a written contract containing specific requirements with Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 160.103, 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and contained in this Addendum.

The parties agree as follows:

1. Definitions.

- a. Except as otherwise defined herein, capitalized terms in this Addendum shall have the definitions set forth in the HIPAA Rules at 45 C.F.R. Parts 160, 162 and 164, as amended. In the event of any conflict between the mandatory provisions of the HIPAA Rules and the provisions of this Contract, the HIPAA Rules shall control. Where the provisions of this Contract differ from those mandated by the HIPAA Rules, but are nonetheless permitted by the HIPAA Rules, the provisions of this Contract shall control.

- b. “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be

used to identify the individual, and shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.501.

c. “Protected Information” shall mean PHI provided by CE to Associate or created received, maintained or transmitted by Associate on CE’s behalf. To the extent Associate is a covered entity under HIPAA and creates or obtains its own PHI for treatment, payment and health care operations, Protected Information under this Contract does not include any PHI created or obtained by Associate as a covered entity and Associate shall follow its own policies and procedures for accounting, access and amendment of Associate’s PHI.

d. “Subcontractor” shall mean a third party to whom Associate delegates a function, activity, or service that involves CE’s Protected Information, in order to carry out the responsibilities of this Agreement.

2. Obligations of Associate.

a. Permitted Uses. Associate shall not use Protected Information except for the purpose of performing Associate’s obligations under this Contract and as permitted under this Addendum. Further, Associate shall not use Protected Information in any manner that would constitute a violation of the HIPAA Rules if so used by CE, except that Associate may use Protected Information: (i) for the proper management and administration of Associate; (ii) to carry out the legal responsibilities of Associate; or (iii) for Data Aggregation purposes for the Health Care Operations of CE. Additional provisions, if any, governing permitted uses of Protected Information are set forth in Attachment A to this Addendum. Associate accepts full responsibility for any penalties incurred as a result of Associate’s breach of the HIPAA Rules.

b. Permitted Disclosures. Associate shall not disclose Protected Information in any manner that would constitute a violation of the HIPAA Rules if disclosed by CE, except that Associate may disclose Protected Information: (i) in a manner permitted pursuant to this Contract; (ii) for the proper management and administration of Associate; (iii) as required by law; (iv) for Data Aggregation purposes for the Health Care Operations of CE; or (v) to report violations of law to appropriate federal or state authorities, consistent with 45 C.F.R. Section 164.502(j)(1). To the extent that Associate discloses Protected Information to a third party Subcontractor, Associate must obtain, prior to making any such disclosure: (i) reasonable assurances through execution of a written agreement with such third party that such Protected Information will be held confidential as provided pursuant to this Addendum and only disclosed as required by law or for the purposes for which it was disclosed to such third party; and that such third party will notify Associate within two (2) business days of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach. Additional provisions, if any, governing permitted disclosures of Protected Information are set forth in Attachment A.

c. Appropriate Safeguards. Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this Contract. Associate shall comply with the requirements of the HIPAA Security Rule at 45 C.F.R. Sections 164.308, 164.310, 164.312, and 164.316. Associate shall maintain a

comprehensive written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Associate's operations and the nature and scope of its activities. Associate shall review, modify, and update documentation of, its safeguards as needed to ensure continued provision of reasonable and appropriate protection of Protected Information.

d. Reporting of Improper Use or Disclosure. Associate shall report to CE in writing any use or disclosure of Protected Information other than as provided for by this Contract within five (5) business days of becoming aware of such use or disclosure.

e. Associate's Agents. If Associate uses one or more Subcontractors or agents to provide services under the Contract, and such Subcontractors or agents receive or have access to Protected Information, each Subcontractor or agent shall sign an agreement with Associate containing the same provisions as this Addendum and further identifying CE as a third party beneficiary with rights of enforcement and indemnification from such Subcontractors or agents in the event of any violation of such Subcontractor or agent agreement. The Agreement between the Associate and Subcontractor or agent shall ensure that the Subcontractor or agent agrees to at least the same restrictions and conditions that apply to Associate with respect to such Protected Information. Associate shall implement and maintain sanctions against agents and Subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation.

f. Access to Protected Information. If Associate maintains Protected Information contained within CE's Designated Record Set, Associate shall make Protected Information maintained by Associate or its agents or Subcontractors in such Designated Record Sets available to CE for inspection and copying within ten (10) business days of a request by CE to enable CE to fulfill its obligations to permit individual access to PHI under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.524. If such Protected Information is maintained by Associate in an electronic form or format, Associate must make such Protected Information available to CE in a mutually agreed upon electronic form or format.

g. Amendment of PHI. If Associate maintains Protected Information contained within CE's Designated Record Set, Associate or its agents or Subcontractors shall make such Protected Information available to CE for amendment within ten (10) business days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, and shall incorporate any such amendment to enable CE to fulfill its obligations with respect to requests by individuals to amend their PHI under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Associate or its agents or Subcontractors, Associate must notify CE in writing within five (5) business days of receipt of the request. Any denial of amendment of Protected Information maintained by Associate or its agents or Subcontractors shall be the responsibility of CE.

h. Accounting Rights. If Associate maintains Protected Information contained within CE's Designated Record Set, Associate and its agents or Subcontractors shall make available to CE within ten (10) business days of notice by CE, the information required to

provide an accounting of disclosures to enable CE to fulfill its obligations under the HIPAA Rules, including, but not limited to, 45 C.F.R. Section 164.528. In the event that the request for an accounting is delivered directly to Associate or its agents or Subcontractors, Associate shall within five (5) business days of the receipt of the request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. Associate shall not disclose any Protected Information except as set forth in Section 2(b) of this Addendum.

i. Governmental Access to Records. Associate shall keep records and make its internal practices, books and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary"), in a time and manner designated by the Secretary, for purposes of determining CE's or Associate's compliance with the HIPAA Rules. Associate shall provide to CE a copy of any Protected Information that Associate provides to the Secretary concurrently with providing such Protected Information to the Secretary when the Secretary is investigating CE. Associate shall cooperate with the Secretary if the Secretary undertakes an investigation or compliance review of Associate's policies, procedures or practices to determine whether Associate is complying with the HIPAA Rules, and permit access by the Secretary during normal business hours to its facilities, books, records, accounts, and other sources of information, including Protected Information, that are pertinent to ascertaining compliance.

j. Minimum Necessary. Associate (and its agents or subcontractors) shall only request, use and disclose the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure, in accordance with the Minimum Necessary requirements of the HIPAA Rules including, but not limited to 45 C.F.R. Sections 164.502(b) and 164.514(d).

k. Data Ownership. Associate acknowledges that Associate has no ownership rights with respect to the Protected Information.

l. Retention of Protected Information. Except upon termination of the Contract as provided in Section 4(d) of this Addendum, Associate and its Subcontractors or agents shall retain all Protected Information throughout the term of this Contract and shall continue to maintain the information required under Section 2(h) of this Addendum for a period of six (6) years.

m. Associate's Insurance. Associate shall maintain insurance to cover loss of PHI data and claims based upon alleged violations of privacy rights through improper use or disclosure of PHI. All such policies shall meet or exceed the minimum insurance requirements of the Contract (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status and notice of cancellation).

n. Notice of Privacy Practices. Associate shall be responsible for reviewing CE's Notice of Privacy Practices, available on CE's external website, to determine any requirements applicable to Associate per this Contract.

o. Notification of Breach. During the term of this Contract, Associate shall notify CE within two (2) business days of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Associate shall not initiate notification to affected individuals per the HIPAA Rules without prior notification and approval of CE. Information provided to CE shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed to have been accessed, acquired or disclosed during the breach. Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

p. Audits, Inspection and Enforcement. Within ten (10) business days of a written request by CE, Associate and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Addendum for the purpose of determining whether Associate has complied with this Addendum; provided, however, that: (i) Associate and CE shall mutually agree in advance upon the scope, timing and location of such an inspection; and (ii) CE shall protect the confidentiality of all confidential and proprietary information of Associate to which CE has access during the course of such inspection. The fact that CE inspects, or fails to inspect, or has the right to inspect, Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Associate of its responsibility to comply with this Addendum, nor does CE's (i) failure to detect or (ii) detection, but failure to notify Associate or require Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract.

q. Safeguards During Transmission. Associate shall be responsible for using appropriate safeguards, including encryption of PHI, to maintain and ensure the confidentiality, integrity and security of Protected Information transmitted pursuant to the Contract, in accordance with the standards and requirements of the HIPAA Rules.

r. Restrictions and Confidential Communications. Within ten (10) business days of notice by CE of a restriction upon uses or disclosures or request for confidential communications pursuant to 45 C.F.R. Section 164.522, Associate will restrict the use or disclosure of an individual's Protected Information. Associate will not respond directly to an individual's requests to restrict the use or disclosure of Protected Information or to send all communication of Protected Information to an alternate address. Associate will refer such requests to the CE so that the CE can coordinate and prepare a timely response to the requesting individual and provide direction to Associate.

3. Obligations of CE.

a. Safeguards During Transmission. CE shall be responsible for using appropriate safeguards, including encryption of PHI, to maintain and ensure the confidentiality, integrity and security of Protected Information transmitted pursuant to the Contract, in accordance with the standards and requirements of the HIPAA Rules.

b. Notice of Changes. CE maintains a copy of its Notice of Privacy Practices on its website. CE shall provide Associate with any changes in, or revocation of, permission to use or disclose Protected Information, to the extent that it may affect Associate's permitted or required uses or disclosures. To the extent that it may affect Associate's permitted use or disclosure of PHI, CE shall notify Associate of any restriction on the use or disclosure of Protected Information that CE has agreed to in accordance with 45 C.F.R. Section 164.522.

4. Termination.

a. Material Breach. In addition to any other provisions in the Contract regarding breach, a breach by Associate of any provision of this Addendum, as determined by CE, shall constitute a material breach of this Contract and shall provide grounds for immediate termination of this Contract by CE pursuant to the provisions of the Contract covering termination for cause, if any. If the Contract contains no express provisions regarding termination for cause, the following terms and conditions shall apply:

(1) Default. If Associate refuses or fails to timely perform any of the provisions of this Contract, CE may notify Associate in writing of the non-performance, and if not promptly corrected within the time specified, CE may terminate this Contract. Associate shall continue performance of this Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services elsewhere.

(2) Associate's Duties. Notwithstanding termination of this Contract, and subject to any directions from CE, Associate shall take timely, reasonable and necessary action to protect and preserve property in the possession of Associate in which CE has an interest.

(3) Compensation. Payment for completed supplies delivered and accepted by CE shall be at the Contract price. In the event of a material breach under paragraph 4a, CE may withhold amounts due Associate as CE deems necessary to protect CE against loss from third party claims of improper use or disclosure and to reimburse CE for the excess costs incurred in procuring similar goods and services elsewhere.

(4) Erroneous Termination for Default. If after such termination it is determined, for any reason, that Associate was not in default, or that Associate's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if this Contract had been terminated for convenience, as described in this Contract.

b. Reasonable Steps to Cure Breach. If CE knows of a pattern of activity or practice of Associate that constitutes a material breach or violation of the Associate's obligations under the provisions of this Addendum or another arrangement and does not terminate this Contract pursuant to Section 4(a), then CE shall take reasonable steps to cure such breach or end such violation.. If CE's efforts to cure such breach or end such violation are unsuccessful, CE shall either (i) terminate the Contract, if feasible or (ii) if termination of this Contract is not feasible, CE shall report Associate's breach or violation to the Secretary of the Department of Health and Human Services. If Associate knows of a pattern of activity or practice of a Subcontractor or

agent that constitutes a material breach or violation of the Subcontractor's or agent's obligations under the written agreement between Associate and the Subcontractor or agent, Associate shall take reasonable steps to cure such breach or end such violation, if feasible.

c. Judicial or Administrative Proceedings. Either party may terminate the Contract, effective immediately, if (i) the other party is named as a defendant in a criminal proceeding for a violation of the HIPAA Rules or other security or privacy laws or (ii) a finding or stipulation that the other party has violated any standard or requirement of the HIPAA Rules or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

d. Effect of Termination.

(1) Except as provided in paragraph (2) of this subsection, upon termination of this Contract, for any reason, Associate shall return or destroy all Protected Information that Associate or its agents or Subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If Associate elects to destroy the PHI, Associate shall certify in writing to CE that such PHI has been destroyed.

(2) If Associate believes that returning or destroying the Protected Information is not feasible, Associate shall promptly provide CE notice of the conditions making return or destruction infeasible. Associate shall continue to extend the protections of Sections 2(a), 2(b), 2(c), 2(d) and 2(e) of this Addendum to such Protected Information, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

5. Injunctive Relief. CE shall have the right to injunctive and other equitable and legal relief against Associate or any of its Subcontractors or agents in the event of any use or disclosure of Protected Information in violation of this Contract or applicable law.

6. No Waiver of Immunity. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS 24-10-101 *et seq.* or the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.* as applicable, as now in effect or hereafter amended.

7. Limitation of Liability. Any limitation of Associate's liability in the Contract shall be inapplicable to the terms and conditions of this Addendum.

8. Disclaimer. CE makes no warranty or representation that compliance by Associate with this Contractor the HIPAA Rules will be adequate or satisfactory for Associate's own purposes. Associate is solely responsible for all decisions made by Associate regarding the safeguarding of PHI.

9. Certification. To the extent that CE determines an examination is necessary in order to comply with CE's legal obligations pursuant to the HIPAA Rules relating to certification of its

security practices, CE or its authorized agents or contractors, may, at CE's expense, examine Associate's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to CE the extent to which Associate's security safeguards comply with the HIPAA Rules or this Addendum.

10. Amendment.

a. Amendment to Comply with Law. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of the HIPAA Rules and other applicable laws relating to the confidentiality, integrity, availability and security of PHI. The parties understand and agree that CE must receive satisfactory written assurance from Associate that Associate will adequately safeguard all Protected Information and that it is Associate's responsibility to receive satisfactory written assurances from Associate's Subcontractors and agents. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of the HIPAA Rules or other applicable laws. CE may terminate this Contract upon thirty (30) days written notice in the event (i) Associate does not promptly enter into negotiations to amend this Contract when requested by CE pursuant to this Section, or (ii) Associate does not enter into an amendment to this Contract providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of the HIPAA Rules.

b. Amendment of Attachment A. Attachment A may be modified or amended by mutual agreement of the parties in writing from time to time without formal amendment of this Addendum.

11. Assistance in Litigation or Administrative Proceedings. Associate shall make itself, and any Subcontractors, employees or agents assisting Associate in the performance of its obligations under the Contract, available to CE, at no cost to CE up to a maximum of 30 hours, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of the HIPAA Rules or other laws relating to security and privacy or PHI, except where Associate or its Subcontractor, employee or agent is a named adverse party.

12. No Third Party Beneficiaries. Nothing express or implied in this Contract is intended to confer, nor shall anything herein confer, upon any person other than CE, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

13. Interpretation and Order of Precedence. The provisions of this Addendum shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. Together, the Contract and this Addendum shall be interpreted as broadly as necessary to implement and comply with the HIPAA Rules. The parties agree that any ambiguity in this Contract shall be resolved in favor of a meaning that complies and is consistent

with the HIPAA Rules. This Contract supercedes and replaces any previous separately executed HIPAA addendum between the parties.

14. Survival of Certain Contract Terms. Notwithstanding anything herein to the contrary, Associate's obligations under Section 4(d) ("Effect of Termination") and Section 12 ("No Third Party Beneficiaries") shall survive termination of this Contract and shall be enforceable by CE as provided herein in the event of such failure to perform or comply by the Associate. This Addendum shall remain in effect during the term of the Contract including any extensions.

15. Representatives and Notice.

a. Representatives. For the purpose of the Contract, the individuals identified elsewhere in this Contract shall be the representatives of the respective parties. If no representatives are identified in the Contract, the individuals listed below are hereby designated as the parties' respective representatives for purposes of this Contract. Either party may from time to time designate in writing new or substitute representatives.

b. Notices. All required notices shall be in writing and shall be hand delivered or given by certified or registered mail to the representatives at the addresses set forth below.

State/Covered Entity Representative:

Name: David Collins
Title: Director
Department and Division: Division of Early Care and Learning
Address: 1575 Sherman Street, 1st Floor
Denver, Co 80203

Contractor/Business Associate Representative:

Name: Robert McDonald,
Title: Manager
Department and Division: City and County of Denver
Address: 200 W. 14th Avenue
Denver, Co80202

ATTACHMENT A

This Attachment sets forth additional terms to the HIPAA Business Associate Addendum, which is part of the Contract dated 3/6/2015, between Department of Human Services, Division of Early Care and Learning and City and County of Denver, contract number 16-IHA-77591 ("Contract") and is effective upon approval by the State Controller or designee, or on 7/1/2015 (the "Attachment Effective Date"). This Attachment may be amended from time to time as provided in Section 10(b) of the Addendum.

1. Additional Permitted Uses. In addition to those purposes set forth in Section 2(a) of the Addendum, Associate may use Protected Information as follows: _____
None except as otherwise directed in writing by the State

2. Additional Permitted Disclosures. In addition to those purposes set forth in Section 2(b) of the Addendum, Associate may disclose Protected Information as follows: _____
None except as otherwise directed in writing by the State

3. Subcontractor(s). The parties acknowledge that the following subcontractors or agents of Associate shall receive Protected Information in the course of assisting Associate in the performance of its obligations under this Contract: _____
None except as otherwise directed in writing by the State

4. Receipt. Associate's receipt of Protected Information pursuant to this Contract shall be deemed to occur as follows, and Associate's obligations under the Addendum shall commence with respect to such PHI upon such receipt: Upon the effective date of the contract _____

5. Additional Restrictions on Use of Data. CE is a Business Associate of certain other Covered Entities and, pursuant to such obligations of CE, Associate shall comply with the following restrictions on the use and disclosure of Protected Information: As may be directed in writing by the State _____

6. Additional Terms. *[This section may include specifications for disclosure format, method of transmission, use of an intermediary, use of digital signatures or PKI, authentication, additional security of privacy specifications, de-identification or re-identification of data and other additional terms.]*

The contractor shall adhere to the requirements for notification of an amendment of PHI and shall act upon the request within 60 days and may be given an extension of 30 days.

Miscellaneous Provisions

Privacy Insurance

If this Contract includes a HIPAA Business Associates Addendum exhibit, Contractor and its applicable subcontractors hereunder shall obtain and maintain during the term of this Contract liability insurance covering all loss of Protected Health Information data and claims based upon alleged violations of privacy rights through improper use or disclosure of Protected Health Information with minimum annual limits as follows:

1. Contractors with 10 or less clients or revenues of \$250,000 or less shall maintain limits on Privacy Liability Insurance of not less than \$50,000.
2. Contractors with 25 or less clients or revenues of \$500,000 or less shall maintain limits on Privacy Liability Insurance of not less than \$100,000.
3. Contractors with more than 25 clients or revenues of more than \$500,000 shall maintain limits on Privacy Liability Insurance of not less than \$1,000,000.

This provision modifies and takes precedence over any conflicting requirements in the Contract General Provisions relative to privacy insurance coverage by Contractor.

OPTION LETTER PROVISION

The State may require continued performance for a period of 1 year at the same rates and same terms specified in the Contract. If the State exercises the option, it will provide written notice to Contractor at least 30 days prior to the end of the current contract term in a form substantially equivalent to **Exhibit K**. If exercised, the provisions of the Option Letter shall become part of and be incorporated into the original contract. The total duration of this Contract, including the exercise of any options under this clause, shall not exceed 5 years.

The State may increase or decrease the quantity of goods/services described in section/schedule/exhibit based upon the rates established in the Contract. If the State exercises the option, it will provide written notice to Contractor as least 30 days prior to the end of the current contract term in a form substantially equivalent to **Exhibit K**. Delivery/performance of the goods/service shall continue at the same rates and terms. If exercised, the provisions of the Option Letter shall become part of and be incorporated into the original contract.

The State may require the contractor to begin performance on the next contact phase as outlined in the Statement of Work in Exhibit A and at the same terms and same conditions stated in the contract. If the State exercises this option, it will provide written notice to the contractor at least 30 days prior to the end of the current phase in a form substantially equivalent to Exhibit K. If exercised, the provisions of the Option Letter shall become part of and be incorporated into the original contract.

SAMPLE OPTION LETTER

| | | | |
|-------|--------------------|-------------------|---------------|
| Date: | State Fiscal Year: | Option Letter No. | CMS Routing # |
|-------|--------------------|-------------------|---------------|

- 1) **OPTIONS:** Choose all applicable options listed in §1 and in §2 and delete the rest [*also delete all yellow highlighted text*].
- a. Option to renew only (for an additional term)
 - b. Change in the amount of goods within current term
 - c. Change in amount of goods in conjunction with renewal for additional term
 - d. Level of service change within current term
 - e. Level of service change in conjunction with renewal for additional term
 - f. Option to initiate next phase of a contract
- 2) **REQUIRED PROVISIONS.** All Option Letters shall contain the appropriate provisions set forth below:
- a. For use with Options 1(a-e):** In accordance with Section(s) _____ of the Original Contract routing number _____ between the State of Colorado, Department of Human Services, and Contractor's Name, the State hereby exercises its option for an additional term beginning Insert start date and ending on Insert ending date at a cost/price specified in Section _____, AND/OR an increase/decrease in the amount of goods/services at the same rate(s) as specified in Identify the Section, Schedule, Attachment, Exhibit etc.
 - b. For use with Option 1(f), please use the following:** In accordance with Section(s) _____ of the Original Contract routing number _____ between the State of Colorado, Department of Human Services, and Contractor's Name, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc for the term beginning Insert start date and ending on Insert ending date at the cost/price specified in Section _____
 - c. For use with all Options:** The amount of the current Fiscal Year contract value is increased/decreased by \$ amount of change to a new contract value of Insert New \$ Amt to as consideration for services/goods ordered under the contract for the current fiscal year indicate Fiscal Year. The first sentence in Section _____ is hereby modified accordingly. The total contract value including all previous amendments, option letters, etc. is Insert New \$ Amt.
- 3) **Effective Date.** The effective date of this Option Letter is upon approval of the State Controller or _____, whichever is later.

STATE OF COLORADO
John W. Hickenlooper, GOVERNOR
 Department of Human Services
 Reggie Bicha, Executive Director

By: Insert Name & Title of Person Signing for Agency or IHE

Date: _____

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____

Date: _____



Time Certification Form

The Division of Early Care and Learning requires periodic certification for employees assigned to a child care licensing contract. Personnel costs must be supported by monthly certifications stating that the employee worked solely on that program for at least the percentage of time specified in the contract. DECL requires a signature from the employee as well as a supervisory official with firsthand knowledge of the work performed by employee. This form is used to timely report the effort of program members or employees paid from and/or contributing effort to federally-funded, State-funded, or cost sharing programs. To comply with these requirements, please complete, sign and submit the time certification at least monthly. If you compete monthly invoicing, please submit along with invoice for payment.

Employee Name/Title: _____

Supervisor Name/Title: _____

Month/year: _____ Time worked on program area for reported month/year: _____ %

By signing below I certify as the employee listed above I have spent the required percentage of time working exclusively on work required within the licensing contract for the certification period shown. By signing below as the Supervisor, I certify that I am an official having firsthand knowledge of the work performed by the employee listed during the period specified above and certify that the employee spent the required percentage of time working exclusively on work required by the licensing contract. If for any reason the minimum amount of time specified in the contract is not met a detailed account of the underutilization must be submitted along with this form.

| | |
|--------------------|----------------------|
| Employee Signature | Supervisor Signature |
|--------------------|----------------------|

Child Care Facility Inspection State Contract Budget Worksheet

| # | Item | Amount | Note | Source |
|----|--|------------|--|--|
| 1 | Annual indirect charges paid to Administration from contract | \$ 99,212 | 18.2% of total amount -- this would go to the General Fund | CCD Indirect Cost Allocation Rate Letter |
| 2 | Staff Salaries | | | |
| 2 | Public Health Investigator I (00054624) | \$ 57,673 | Full cost of salary and benefits w/ '15 merit increase of 3% | Questica/PeopleSoft |
| 2 | Public Health Investigator I (00054625) | \$ 59,208 | Full cost of salary and benefits w/ '15 merit increase of 3% | Questica/PeopleSoft |
| 2 | Public Health Investigator I (VACANT) | \$ 58,441 | Using avg. Pub Hlth Investigator I salary and benefits | Questica/PeopleSoft |
| 2 | Env Pub Hlth Investigator II (13733) | \$ 68,289 | Full cost of salary and benefits w/ '15 merit increase of 3% | Questica/PeopleSoft |
| 2 | Env Pub Hlth Investigator II (29966) | \$ 95,541 | Full cost of salary and benefits w/ '15 merit increase of 3% | Questica/PeopleSoft |
| 2 | Env Pub Hlth Investigator III (03617) | \$ 75,507 | Full cost of salary and benefits w/ '15 merit increase of 3% | Questica/PeopleSoft |
| 2 | Env Pub Health Pgm Supv (05054) | \$ 80,845 | Full cost of salary and benefits w/ '15 merit increase of 3% | Questica/PeopleSoft |
| 2 | Admin Support Assistant IV (03657) | \$ 27,004 | Full cost of salary and benefits w/ '15 merit increase of 3% | Questica/PeopleSoft |
| 3 | FTE Utilized during current fiscal year | \$ - | No adjustments | Lisa/DEH - PHI |
| 4 | IT costs paid | | | |
| 4 | Hardware | \$ 4,800 | | Lisa/DEH - PHI |
| 4 | Software | \$ 1,500 | | Lisa/DEH - PHI |
| 4 | Support | \$ 2,300 | | Lisa/DEH - PHI |
| 5 | Utility Costs | \$ 840 | Cube area (64 sq ft) x 7.5 FTE x \$1.75 per square foot | Lisa & Kasha/DOF - Real Estate |
| 6 | Office Supplies | \$ 5,400 | | Lisa/DEH - PHI |
| 7 | Facility/space costs | \$ 8,760 | Cube area (64 sq ft) x 7.5 FTE x \$18.25 per square foot | Lisa & Kasha/DOF - Real Estate |
| 7 | Facility/space costs | \$ 12,000 | Space realignment to make room for additional inspectors | Lisa & Kasha/DOF - Real Estate |
| 8 | Bonuses, incentives, gatherings, food | \$ - | | Lisa/DEH - PHI |
| 9 | Training | \$ 5,200 | | Lisa/DEH - PHI |
| 10 | Other/Miscellaneous | \$ 20,667 | Mileage reimbursements | Lisa/DEH - PHI |
| | Total Cost of Child Care Facility Inspections: | \$ 683,186 | | |

| | | | |
|--|-----------|--|--|
| Reduction for Time Spent Conducting Health Inspections | \$ 38,852 | 0.56 FTEs of time are spent annually on health inspections and reinspections | Staffing analysis, avg. Pub Hlth Investigator I, II compensation |
|--|-----------|--|--|

Total Cost to Fulfill State CCFI Contract \$ 644,334

Exhibit N
ADDITIONAL PROVISIONS

The following additional wording shall be made to Section H, paragraph two (2) of the current provision regarding indemnification in inter-governmental contracts between the State and the City and County of Denver.

Section H page 4 of the Contract number 16 IHIA 77591 shall contain the following additions and upon execution of the contract shall become a permanent part thereof:

No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, CRS 24-10-101 *et seq.* of the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*, as applicable, as now or hereafter amended. The Contractor, by execution of this contract containing this indemnification clause, does not waive the operation of any law concerning the parties' ability to indemnify.

The City does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of the City.