



**STATE OF MISSOURI
OFFICE OF ADMINISTRATION
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT**

NOTIFICATION OF STATEWIDE CONTRACT

December 30, 2009

CONTRACT TITLE: Revenue Maximization/Cost Avoidance Services

CURRENT CONTRACT PERIOD: October 1, 2009 to September 30, 2010

BUYER INFORMATION:	Mary Call 573/751-1695 mary.call@oa.mo.gov	PROJECT MANAGER INFORMATION:	Karen Boeger 573/751-3273 or 573/751-1699 karen.boeger@oa.mo.gov
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THE USE OF THIS CONTRACT IS MANDATORY FOR ALL STATE AGENCIES.

However, use of this contract must be approved by a project team which is a cross-departmental team developed to focus on maximizing federal and other revenue dollars available to the State of Missouri. Any state agency desiring to use this contract must obtain the approval of the State of Missouri “**project manager**”, as listed above. The project manager shall be the only contact between the contractors and all state agencies related to use or potential use of the contract.

RENEWAL INFORMATION	Original Contract Period	Potential Final Expiration
		10/1/2006 to 9/30/2007

ALL PURCHASES MADE UNDER THIS CONTRACT MUST BE FOR PUBLIC USE ONLY. PURCHASES FOR PERSONAL USE BY PUBLIC EMPLOYEES OR OFFICIALS ARE PROHIBITED.

~ Instructions for use of the contract, specifications, requirements, and pricing are attached ~.

CONTRACT NUMBER	VENDOR NUMBER	VENDOR INFORMATION	MBE/WBE	COOP PROCUREMENT
C306222002	0429429130 2	0429429130 2 Public Consulting Group, Inc. 148 State Street, 10 th Floor, Boston, MA 02109 Contact: John Shaughnessy jshuaghnessy@pcgus.com Phone: 617-426-2026 Fax 617-426-4632		No
		Coleman & Associates 1805 CRADER Jefferson City, MO 65109	MBE/WBE 10%	

STATEWIDE CONTRACT HISTORY

The following summarizes actions related to this Notification of Statewide Contract since its initial issuance. Any and all revisions have been incorporated into the attached document.

Contract Period	Issue Date	Summary of Changes
10/1/09-9/30/10	12/30/09	Changed contact name for Contract C306222002 (Public Consulting Group, Inc.).
10/1/09-9/30/10	10/29/09	Renewal of Contract C306222002.
10/1/08-9/30/09	10/01/08	Renewal of Contracts
10/1/07-9/30/08	10/05/07	Renewal of Contracts
10/1/06-9/30/07	10/1/06	Initial issuance of new statewide contract

CONTRACT PRICES

The contractors shall develop a total guaranteed not to exceed price for each work plan for each Revenue Maximization/Cost Avoidance project based on the firm fixed prices shown in the pricing table below.

However, if required by the project manager as part of the written work plan, the contractors shall use an alternate payment methodology either in addition to the total guaranteed not to exceed price or in lieu of the total guaranteed not to exceed price. Such alternate payment methodology may include but not necessarily be limited to a contingency fee based on actual additional recovery amounts.

Contractors shall not be paid nor reimbursed for time and expenses incurred by the contractor in preparation of the work plan or for contractor identification and submission of ideas for potential revenue maximization/cost avoidance projects.

C306222002 – Public Consulting Group (C/S Code: 94643)	
Classification	Per Hour Price
SENIOR-LEVEL	
001 Practice Area Director	\$259.20
002 Manager	\$259.20
003 Associate Manager	\$248.40
004 Legal/Senior Advisor	\$232.20
MID-LEVEL	
005 Senior Consultant	\$232.20
006 Consultant	\$189.00
007 Claims/Collections Specialist	\$125.00
008 Senior Cost Reporting Specialist	\$100.00
ENTRY-LEVEL	
009 Business Analyst	\$145.00
010 Business Analyst Apprentice	\$70.20
011 Cost Reporting/Claims Specialist	\$65.00
OTHER PRICING	
012 Per Diem	\$360.50
013 Misc. Other Pricing Mechanism	As stated in Work Plan

1. CONTRACTUAL REQUIREMENTS

1.1 General Requirements:

- 1.1.1 The contractor shall provide revenue maximization/cost avoidance services designed to accomplish any of the following goals on behalf of the State of Missouri in accordance with the provisions and requirements stated herein.
- a. Identify federal revenue enhancement opportunities for the State of Missouri that exist under current federal statutes, regulations and/or policies for which the State of Missouri is not currently maximizing potential federal earnings.
 - b. Develop and assist in implementing necessary changes to state plans, regulations, policies or procedures necessary to fully maximize these federal revenue enhancement opportunities.
 - c. Identify potential changes to federal statutes, regulations and/or policies that will maximize federal reimbursement to the State of Missouri.
 - d. Assist the State of Missouri in such ways as providing information, statistics, documentation, etc., for furthering the federal adoption of potential changes to federal statutes, regulations, and/or policies identified.
 - e. Develop and assist in implementing federal and nonfederal cost savings and cost containment concepts in order to minimize costs of services or maximize and enhance existing recovery activities and develop additional means of recovery for costs incurred by the State of Missouri.
- 1.1.2 The contractor shall coordinate all communication, services, and approvals related to development and approval of a work plan through a State of Missouri “project manager” who shall be appointed to be the contact person for the State of Missouri. At the time the State of Missouri project manager identifies a project as an approved revenue maximization/cost avoidance project, the project manager shall contact all of the contractors awarded a contract and request a work plan for the potential revenue maximization/cost avoidance project as specified elsewhere herein.
- a. Any agency of the State of Missouri may identify the need for revenue maximization/cost avoidance services, although it is anticipated that the agencies having representation on the project team will be the primary users.
 - b. If a work plan is approved for an agency of the State of Missouri that agency shall be considered a using state agency.
- 1.1.3 The contractor shall provide the requested services on an as needed, if needed basis and shall agree and understand that the contract shall not be construed as an exclusive arrangement and that other contracts shall exist for the same services. The contract does not require mandatory participation by any state agency.
- a. Any agency of the State of Missouri may, at its own discretion, perform revenue maximization/cost avoidance services in-house or through other methods at any time when deemed in the best interest of the State of Missouri.
 - b. The revenue maximization/cost avoidance services identified herein shall exclude the Missouri Department of Social Services Third Party Liability (TPL) services and Funding Recovery for Special Education Funds since both services are being provided via separate contract(s).
- 1.1.4 The contractor must function as the single point of contact for the project manager, regardless of any subcontract arrangements for products and services. This shall include assuming responsibility and liabilities for services provided. By no later than fifteen (15) calendar days after the effective date of the contract, the contractor must provide the project manager with the name, address, and phone number of a person within the contractor’s organization who shall serve as the contractor’s representative for the contract.

1.2 Requirements for Identification of Potential Revenue Maximization/Cost Avoidance Projects:

- 1.2.1 Contractor identification of potential projects - Although the project team and/or specific using agencies anticipate being the primary parties involved in identification of the revenue maximization/cost avoidance projects to be performed pursuant to the contract, the contractor shall be permitted to identify potential revenue maximization/cost avoidance projects. The contractor must follow the procedures stated below for communicating such ideas to the project team and shall understand that because multiple contracts shall exist for revenue maximization/cost avoidance services, the project manager shall contact each of the contractors for a work plan related to any idea(s) submitted by the contractor and approved as a potential revenue maximization/cost avoidance project by the project manager. Therefore, any ideas submitted by the contractor shall be submitted based on such conditions without reservation.
- a. The contractor shall submit each revenue maximization/cost avoidance project idea in writing directly to the project manager. Any idea submitted to any other person or entity may not be considered, solely at the discretion of the project manager.
 - b. Each idea must be submitted as a separate revenue maximization/cost avoidance project and shall not be combined with any other project/idea or submitted as a package.
 - c. The contractor shall include appropriate description, back-up, and rationale with each idea.
 - d. If required by the project manager, the contractor shall orally present the contractor's revenue maximization/cost avoidance idea to the project manager, project team, using state agency, and/or other State of Missouri designees. If required, such presentation shall be scheduled by the project manager with at least fifteen (15) calendar days notice to the contractor.
 - e. The contractor shall agree and understand that the project manager shall have the right to reject the idea, or any portion thereof, for any reason and shall have the right to require modifications, changes, and/or additional elaboration to the idea as deemed necessary in order to ensure a comprehensive understanding of the idea.
- 1.2.2 State of Missouri identification and/or approval of projects - At the point when the project manager identifies a project as an approved revenue maximization/cost avoidance project (either through identification of need by the project team or using state agency or by approving an idea presented by a contractor as described above), the project manager shall contact each contractor awarded a contract (as described in the Proposal Submission Information section of the RFP) and request a work plan from each contractor for the potential revenue maximization/cost avoidance project.
- a. Request for Work Plan - When requesting a work plan, the project manager shall provide the contractor with written information regarding the potential revenue maximization/cost avoidance project in a standard format and shall also advise the contractor of instructions for any comment/discussion period, if any. The project manager's request will explain in detail the scope of the project and basic information regarding the tasks the project team anticipates will be included, including any of the following, as applicable:
 - 1) applicable business and technical specifications,
 - 2) a description of the type and focus of the potential services,
 - 3) specific instructions, standards, and requirements applicable to the revenue maximization/cost avoidance project, including but not limited to the pricing methodology(ies) that must be used, budget limitations, if any, etc.
 - 4) any applicable implementation/completion dates, and
 - 5) a due date for submission of the work plan to the project manager.
 - b. Unavailability to perform - If the contractor is unavailable to provide the services required or would otherwise be unable to fulfill the requirements of the contract for the revenue maximization/cost avoidance project requested, the contractor must notify the project manager of such unavailability by the latter of fifteen (15) calendar days after the initial contact by the project manager or by the work plan due date. Such

notification must be in writing and must include the specific reasons why the contractor is not able to perform the revenue maximization/cost avoidance project requested. The reasons for unavailability will be monitored throughout the contract period and continued unavailability of a contractor to perform shall be used in the decision to exercise or not exercise the contract renewal.

1.2.3 Potential Projects - The contractor shall agree and understand that actual revenue maximization/cost avoidance projects that may be required by the State of Missouri are not known. However, the project team has identified the following as potential types (although not necessarily a comprehensive list) of projects that may be pursued:

- a. Matching federal Medicaid dollars on matchable services being provided by local governmental units;
- b. Children's Medicaid rehabilitation option in Comprehensive Psychiatric Services;
- c. Match on early childhood special education and early childhood services;
- d. Upper Payment Limit possibilities for services provided by local governmental organizations;
- e. Title IV-E for children's services.
- f. Administrative Match on Medicaid
- g. Home & Community Based Waiver
- h. Potential to maximize block grants by ensuring all matchable (non-block grant) federal dollars are being earned;
- i. Juveniles in Division of Youth Service – Medicaid match for Targeted Case Management (TCM) and non-institutional services;
- j. Obtaining supplemental Medicare payments under the TEFRA Exception for state operated psychiatric hospitals.

1.3 Work Plan Submission and Acceptance Requirements:

1.3.1 Work Plan Submission - By no later than the due date specified in writing by the project manager, the contractor shall develop and submit the written work plan for the revenue maximization/cost avoidance project to the project manager. The contractor must, at a minimum, include the following detailed information in the written work plan along with any other information required by the project manager, unless the scope of the project renders certain information not applicable:

- a. Contractor name and contact numbers.
- b. Title of the proposed revenue maximization/cost avoidance project.
- c. General short description of the proposed revenue maximization/cost avoidance project.
- d. Scope of the proposed revenue maximization/cost avoidance project including specific activities and methodology that will be performed.
 - 1) The scope must include a detailed description of the revenue maximization/cost avoidance project implementation through completion including a full and complete description of each proposed solution necessary for additional revenue maximization/cost avoidance.
 - 2) The scope must also include specific project deliverables and milestones for compensation of project costs.
- e. Probable positive and negative aspects affecting the State of Missouri, provider community, or others, as applicable.
- f. Policy/procedural changes necessary for implementation.
- g. MBE/WBE participation commitment information documenting dollar amount of MBE/WBE participation that will be used for the revenue maximization/cost avoidance project.

- h. Manpower hours and effort required by both the contractor and State of Missouri personnel, if necessary. However, the State of Missouri anticipates that any State of Missouri personnel involvement will be minimal.
 - i. Identification of those personnel who will be assigned to work on the proposed revenue maximization/cost avoidance project, the role of each such person on the team, and a brief summary of the qualifications of each such person. In assigning personnel, unless otherwise approved by the state agency, the contractor must commit that a team leader or other senior-level policy person must maintain an on-site physical presence at the state agency (or location of the hands-on project implementation, if not the state agency) throughout the implementation of the project.
 - j. A description of the type and degree of access to records and materials that will be required by the contractor in order to perform the services. The type and description of the reviews and analyses that will be performed by the contractor.
 - k. Amount of time and extent of need for State of Missouri facilities and equipment.
 - l. Time periods that will be affected, including projected implementation date, completion date, federal time limitations, proposed data submission schedules, etc. Unless otherwise specified by the project manager, the contractor must design the revenue maximization/cost avoidance project to secure additional revenue related to those expenditures incurred through the end of the contract period. The contractor must prepare all necessary documents to allow for the additional revenue to be claimed, reported, or adjusted as a reimbursable expense in order to satisfy federal time limitations on filing or adjusting claims for federal financial participation (FFP) and/or any other time limitations on filing or adjusting claims for other reimbursement.
 - m. Estimated recovery amounts and projected enhanced revenues from the project.
 - n. A total guaranteed not to exceed price that shall constitute the amount the contractor shall be paid if authorized to perform the revenue maximization/cost avoidance project. Such total guaranteed not to exceed price shall be based on the firm fixed hourly prices and per diems specified in the contract and shall include all costs and expenses necessary to perform the project. However, if required by the project manager as part of the written work plan, the contractor shall use an alternate payment methodology either in addition to the total guaranteed not to exceed price or in lieu of the total guaranteed not to exceed price. Such alternate payment methodology may include but not necessarily be limited to a contingency fee based on actual additional recovery amounts.
 - o. Signature and date lines for both the contractor and the project manager's authorized signatures to signify approval. The contractor shall sign and date the work plan at the time of submission to the project manager.
- 1.3.2 Oral Presentation of Work Plan - If required by the project manager, the contractor shall orally present the contractor's work plan to the project manager, project team, using state agency, and/or other State of Missouri designees. If required, such presentation shall be scheduled by the project manager with at least fifteen (15) calendar days notice to the contractor, unless otherwise mutually approved by both parties.
- 1.3.3 Changes to Work Plan - The contractor shall agree and understand that the State of Missouri shall have the right to reject the contractor's work plan, or any portion thereof, for any reason and shall have the right to require modifications, changes, and/or additional elaboration to the work plan as deemed necessary in order to ensure a comprehensive revenue maximization/cost avoidance project and to ensure that the contractor's proposed services are acceptable and will accomplish the desired objectives. Any negotiations regarding the work plan shall be conducted by the project manager on behalf of the using state agency.
- 1.3.4 Evaluation of Work Plan - The contractor shall agree and understand that a work plan for the same revenue maximization/cost avoidance project shall also be completed by other contractors awarded a contract pursuant to this RFP. Therefore, the project team, designees thereof, or the using state agency shall evaluate each completed work plan and shall determine which work plan, if any, will be the most advantageous to the State of Missouri.

Such determination shall be based on the quality of the revenue maximization/cost avoidance project described in the work plan, the amount of estimated recovery amounts and projected enhanced revenues and the factual basis for such estimates, and the total guaranteed not to exceed price that will be charged by the contractor for performing such revenue maximization/cost avoidance project.

- 1.3.5 Acceptance/Rejection of Work Plan – After completion of the evaluation, the project manager shall either provide the contractor with a written rejection or with written acceptance of the contractor’s work plan. If the work plan is accepted by the State of Missouri, the project manager will countersign the work plan in the signature blank included in the plan.
- a. Acceptance of a work plan by the project manager shall NOT constitute authorization to proceed with implementation of the work plan.
 - b. The contractor shall not proceed with implementation of any accepted work plan revenue maximization/cost avoidance project unless written *authorization to proceed* is obtained from the using state agency.
- 1.3.6 Open Records: The contractor shall understand that each work plan submitted shall be considered an open record unless otherwise exempt pursuant to the provisions of the State of Missouri Revised Statutes, specifically RSMo 610.021-022, and other provisions as may be applicable. If the contractor considers any part of their work plan to be proprietary or confidential, the contractor must clearly identify such part and shall provide adequate explanation of what qualifies the material as being held confidential under the provisions of the State of Missouri Revised Statutes.

1.4 Work Plan Execution Requirements:

- 1.4.1 Implementation/Execution of Work Plan - After receipt of written *authorization to proceed* with a revenue maximization/cost avoidance project, the contractor shall perform the services required for the project in accordance with the written work plan accepted by the project manager and to the sole satisfaction of the using state agency.. Unless otherwise specified in the written work plan, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to perform the services.
- 1.4.2 Progress Reports - Immediately after receipt of the authorization to proceed for a revenue maximization/cost avoidance project, the contractor shall begin providing a monthly electronic progress report to the using state agency for review which must briefly describe the following:
- a. The specific accomplishments achieved during the monthly reporting period.
 - b. The specific tasks completed since authorization to proceed pursuant to the provisions of the work plan and the completion dates of such tasks.
 - c. The specific tasks and projected completion date(s) remaining to be completed pursuant to the provisions of the written work plan.
- 1.4.3 Modifications to Work Plan - After implementation/execution of a work plan, modifications to the written work plan shall be permitted due to changing economic conditions, changes to state and/or federal laws or regulations, or for other reasons approved by the project manager pursuant to the following conditions:
- a. State of Missouri requested changes – If the State of Missouri determines that modifications to the written work plan are necessary or desired, the project manager will document the requested changes to the contractor in writing with any new instructions for the revenue maximization/cost avoidance project. Based on the written instructions provided by the project manager, the contractor must revise the written work plan according to the requirements for the written work plan specified herein, including any resulting changes in the estimated recovery amounts and projected enhanced revenues from the project, amount to be paid to the contractor, etc.
 - b. Contractor requested changes - If, after implementation of services, the contractor determines that modifications to the written work plan are necessary, the contractor must submit a written request to the project manager for changes. The written request must include the reason for the modification and must detail the contractor’s proposed changes to the written work plan, including any resulting changes in the

estimated recovery amounts and projected enhanced revenues from the project, amount to be paid to the contractor, etc. The contractor shall agree and understand that the project team, designees thereof, or the using state agency will review the written request of the contractor and the contractor shall be notified in writing by the project manager of approval or disapproval of the request.

- c. The contractor shall agree and understand that the project team, designees thereof, and/or the using state agency shall have the final approval of all individual components of the written work plans revised as specified herein and reserves the right to require modifications (including changes in the price, completion date, etc), deletions, and or additional elaboration to the written work plan. The contractor shall agree and understand that the decision by the State of Missouri shall be final and without recourse.
- d. The contractor shall not proceed with implementation of services related to the modifications until final written approval of the project manager is obtained.

1.4.4 Termination of Work Plan - The State of Missouri shall have the right to terminate any revenue maximization/cost avoidance project at any time at the sole discretion of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least five working days prior to the effective date of such termination. (Every attempt will be made by the state agency to provide more than five working days notice.) In the event of termination pursuant to this paragraph, all documents, data, reports, and accomplishments prepared, furnished or completed by the contractor pursuant to the terms of the contract shall, at the option of the State of Missouri, become the property of the State of Missouri. The contractor shall be entitled to receive just and equitable compensation at the firm fixed hourly and per diem prices specified in the contract for work completed in accordance with the work plan prior to the effective date of the termination.

1.4.5 Final Report - By no later than the time approved in the written work plan, the contractor shall provide the using state agency with an electronic copy of a final written report documenting the results of the revenue maximization/cost avoidance project.

- a. The final written report shall include, but not be limited to including, the following:
 - 1) Title of the revenue maximization/cost avoidance project,
 - 2) A detailed description of the revenue maximization/cost avoidance project performed including a full and complete description of each solution used for additional revenue maximization/cost avoidance,
 - 3) Positive and negative aspects affecting the State of Missouri, provider community, or others, as applicable,
 - 4) Policy/procedural changes implemented, including citation of applicable rule or regulation pertaining to project,
 - 5) Time period for recovery,
 - 6) Recovery amounts/enhanced revenues from the project and/or amendments approved as a result of the project,
 - 7) Estimated additional future recoveries, if any.
- b. The using state agency shall have the right to modify and/or to require additional elaboration of the final report as it deems necessary to ensure a comprehensive and thorough written report of all services provided and work performed in the performance of the revenue maximization/cost avoidance project.
- c. The contractor shall make at least one (1) oral presentation of the final report to persons or organizations as deemed necessary by the using state agency.

1.4.6 Usage Reporting Requirements - By the 15th day following the end of each calendar quarter (January-March, April-June, July-Sept, Oct-Dec), the contractor shall submit a usage report to the Division of Purchasing and Materials Management documenting services provided for all of the various using state agencies during the previous quarter and year-to-date. The contractor must submit the report electronically in an analysis-ready format utilizing a report format approved by the Division of Purchasing and Materials Management.

- a. At a minimum, the report must be broken down by specific work plan and must also contain a total/summary and must contain the information listed below:

- 1) Using State Agency Name
- 2) Work Plan Identification
- 3) Date of Authorization to Proceed
- 4) Purchase Order Number
- 5) Cost to Implement:
 - ✓ Guaranteed not to exceed total from work plan
 - ✓ Actual amount paid to contractor
- 6) MBE/WBE Payments:
 - ✓ Guaranteed total amount from work plan per MBE/WBE
 - ✓ Actual amount paid to each MBE/WBE
- 7) Actual state revenue recognized, if known

- b. In addition, the contractor shall submit the usage report to any using state agency requesting such report in a frequency requested by such state agency. The contractor shall submit the usage report to the requesting state agency for only those services provided for the specific state agency. The contractor must submit the report electronically, in an analysis-ready format specified by the state agency, such as Microsoft Excel or Access.

1.5 Invoicing and Payment Requirements:

1.5.1 Submission of Invoices – After the using agency’s authorization to proceed is received on an accepted revenue maximization/cost avoidance work plan, the contractor shall begin submitting itemized invoices to the using state agency in accordance with the milestones for compensation outlined in the approved work plan and as specified below. In the event that the contractor has been authorized to proceed on more than one revenue maximization/cost avoidance work plan, the contractor must submit separate invoices for each project:

- a. Personnel Time – The contractor shall specify the actual hours spent working on the revenue maximization/cost avoidance project and the appropriate firm fixed hourly price for the personnel classification as specified on the pricing page(s). Actual hours spent working shall not include travel time.
 - 1) The contractor shall only invoice for services performed by personnel classifications listed on the Pricing Page of the contract.
 - 2) The contractor shall support all hours invoiced with detailed time sheets indicating the hours worked each day by each person.
- b. Per Diem – The contractor shall specify the number of days each person actually worked at least four (4) hours on site at a State of Missouri facility(ies) or other location approved by the project manager (such as a US Government facility) and the firm, fixed per diem specified on the Pricing Page(s).
 - 1) The per diem shall be the same for all personnel without regard to personnel classification or official domicile.
 - 2) The per diem shall be the only reimbursement due the contractor for meals, lodging, transportation, and all other personnel related expenses related to travel or performance of services outside the contractor’s official domicile.
 - 3) The per diem shall only be payable if the contractor’s person worked at least four (4) hours on contract activities for a given day at a State of Missouri facility(ies) or other location approved by the project manager and such location was at least forty-five (45) miles outside of the contractor’s official domicile.
- c. Other Costs and Expenses - The contractor shall indicate other costs and expenses incurred and shall attach copies of invoices and/or other receipts to the contractor’s invoice.

1.5.2 Payment for Services:

- a. The contractor shall be paid for services for personnel time and per diems in accordance with firm, fixed prices stated in the contract. In addition, the contractor shall be reimbursed for other costs and expenses previously approved by the project team as part of the accepted work plan. The contractor shall agree and understand that the State of Missouri shall retain ten percent (10%) of the amount of each invoice and shall pay the ten percent retainage to the contractor by no later than sixty days after the project team's acceptance of the contractor's final report and receipt and approval by the project manager of the final invoice. In addition, if execution of the work plan crosses over the State of Missouri fiscal year (7/1 to 6/30), the State of Missouri may elect to pay accumulated retainage at the end of each fiscal year.
- b. Other Costs and Expenses - The contractor shall be reimbursed for other costs and expenses previously approved by the project team as part of the accepted work plan.
- c. However, the total payments and reimbursements to the contractor for all services and expenses shall not exceed the total guaranteed not to exceed price stated by the contractor and accepted by the project team as part of the written work plan.
- d. Furthermore, the contractor shall agree that payment to the contractor does not constitute final acceptance of the contractor's work in performing the revenue maximization/cost avoidance project.
- e. The contractor shall not be paid nor reimbursed for time and expenses incurred by the contractor in preparation of the work plan or for contractor identification and submission of ideas for potential revenue maximization/cost avoidance projects.

1.5.3 No other payments or reimbursements other than those specified herein shall be made to the contractor unless an alternate payment methodology is authorized and approved by the project team as part of the written work plan. If approved, the payment and invoicing requirements for the alternate payment methodology shall be described and approved as part of the work plan.

1.5.4 The contractor must maintain financial and accounting records and evidence pertaining to the contract in accordance with generally accepted accounting principles and other procedures specified by the state agency.

- a. The contractor shall make all such records, books, and other documents relevant to the contract available at all reasonable times and in a format acceptable to the state agency and/or its designees and/or the Missouri State Auditor during the term of the contract, and for five (5) years from the date of final payment on the contract or the completion of an independent audit, whichever is later. If any litigation, claim, negotiation, audit, or other actions involving the records has been started before the expiration of the retention period, the contractor shall retain such records until completion of the action and resolution of all issues which arise from it.
- b. The contractor shall permit governmental auditors and/or authorized representatives of the State of Missouri to have access, for the purpose of audit or examination, to any of the contractor's books, documents, papers, and records recording receipts and disbursements of any of the funds paid to the contractor. The contractor further agrees that any audit exception noted by governmental auditors shall not be paid by the state agency and shall be the sole responsibility of the contractor. However, the contractor shall have the right to contest any such exception by any legal procedure the contractor deems appropriate. The state agency will pay the contractor all amounts which the contractor may ultimately be held entitled to receive as a result of any such legal action.

1.6 Other Contractual Requirements:

1.6.1 Contract - A binding contract shall consist of: (1) the RFP, amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including any contractor BAFO response(s), (3) clarification of the proposal, if any, and (4) the Division of Purchasing and Materials Management's acceptance of the proposal by "notice of award" or by "purchase order". All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.

- a. A notice of award issued by the State of Missouri does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the State of Missouri, the contractor must receive a properly authorized purchase order unless the purchase is equal to or less than \$3,000. State purchases equal to or less than \$3,000 may be processed with a purchase order or other form of authorization given to the contractor at the discretion of the state agency.
 - b. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.
 - c. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the Division of Purchasing and Materials Management or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.
- 1.6.2 Contract Period - The original contract period shall be as stated on page 1 of the Request for Proposal (RFP). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period. The Division of Purchasing and Materials Management shall have the right, at its sole option, to renew the contract for three (3) additional one-year periods, or any portion thereof. In the event the Division of Purchasing and Materials Management exercises such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period, pursuant to applicable option clauses of this document.
- 1.6.3 Renewal Periods - If the option for renewal is exercised by the Division of Purchasing and Materials Management, the contractor shall agree that the prices for the renewal period shall not exceed the maximum percent of increase for the applicable renewal period stated on the Pricing Page of the contract.
- a. If renewal percentages are not provided, then prices during renewal periods shall be the same as during the original contract period.
 - b. The Division of Purchasing and Materials Management does not automatically exercise its option for renewal based upon the maximum percent of increase and reserves the right to offer or to request renewal of the contract at a price less than the maximum percent of increase stated.
- 1.6.4 Termination - The Division of Purchasing and Materials Management reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination.
- 1.6.5 Transition:
- a. Upon award of the contract, the contractor shall work with the state agency and any other organizations designated by the state agency to ensure an orderly transition of services and responsibilities under the contract and to ensure the continuity of those services required by the state agency.
 - b. Upon expiration, termination, or cancellation of the contract, the contractor shall assist the state agency to ensure an orderly transfer of responsibility and/or the continuity of those services required under the terms of the contract to an organization designated by the state agency, if requested in writing. The contractor shall provide and/or perform any or all of the following responsibilities:
 - 1) The contractor shall deliver, FOB destination, all records, documentation, reports, data, recommendations, or printing elements, etc., which were required to be produced under the terms of the

contract to the state agency and/or to the state agency's designee within seven (7) days after receipt of the written request in a format and condition that are acceptable to the state agency.

- 2) The contractor shall agree to continue providing any part or all of the services in accordance with the terms and conditions, requirements and specifications of the contract for a period not to exceed ninety (90) calendar days after the expiration, termination or cancellation date of the contract for a price not to exceed those prices set forth in the contract.
- 3) The contractor shall discontinue providing service or accepting new assignments under the terms of the contract, on the date specified by the state agency, in order to ensure the completion of such service prior to the expiration of the contract.

1.6.6 Contractor Liability - The contractor shall be responsible for any and all personal injury (including death) or property damage as a result of the contractor's negligence involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract. In addition, the contractor assumes the obligation to save the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act.

- a. The contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.
- b. The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.
- c. Under no circumstances shall the contractor be liable for any of the following: (1) third party claims against the state for losses or damages (other than those listed above); (2) loss of, or damage to, the state's records or data; or (3) economic consequential damages (including lost profits or savings) or incidental damages, even if the contractor is informed of their possibility.

1.6.7 Insurance - The contractor shall understand and agree that the State of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract. Therefore, the contractor must acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract.

1.6.8 Subcontractors - Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the contractor and the State of Missouri and to ensure that the State of Missouri is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontract in those matters described in the contract between the State of Missouri and the contractor.

- a. The contractor shall expressly understand and agree that he/she shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract.
- b. The contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the contract shall in no way relieve the contractor of the responsibility for providing the products/services as described and set forth herein.
- c. The contractor must obtain the approval of the State of Missouri prior to establishing any new subcontracting arrangements and before changing any subcontractors. The approval shall not be arbitrarily withheld.

1.6.9 Substitution of Personnel - The contractor agrees and understands that the State of Missouri's agreement to the contract is predicated in part on the utilization of the specific individual(s) and/or personnel qualifications identified in the proposal. Therefore, the contractor agrees that no substitution of such specific individual(s)

and/or personnel qualifications shall be made without the prior written approval of the state agency. The contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the state agency's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The State of Missouri agrees that an approval of a substitution will not be unreasonably withheld.

- 1.6.10 Contractor Status - The contractor represents himself or herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the State of Missouri. Therefore, the contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the State of Missouri, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.
- 1.6.11 Coordination - The contractor shall fully coordinate all contract activities with those activities of the state agency. As the work of the contractor progresses, advice and information on matters covered by the contract shall be made available by the contractor to the state agency or the Division of Purchasing and Materials Management throughout the effective period of the contract.
- 1.6.12 Property of State - The contractor shall agree and understand that all programs, reports, materials, documentation, etc., which are developed or acquired by the contractor as a requirement of the contract shall become the property of the State of Missouri, which shall include all rights and interests for present and future use or sale as deemed appropriate by the state agency.
- a. The State of Missouri understands and agrees that any ancillary software tools or pre-printed materials (e.g., project management software tools or training software tools, etc.) developed or acquired by the contractor that may be necessary to perform a particular service required hereunder but not required as a specific deliverable of the contract, shall remain the property of the contractor; however, the contractor shall be responsible for ensuring such tools and materials are being used in accordance with applicable intellectual property rights and copyrights.
 - b. The contractor shall further agree that no reports, documentation, or material prepared, including the program(s) developed as required by the contract, shall be used or marketed by the contractor or released to the public without the prior written consent of the state agency.
- 1.6.13 Confidentiality:
- a. The contractor shall agree and understand that all discussions with the contractor and all information gained by the contractor as a result of the contractor's performance under the contract shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of the state agency.
 - b. The contractor shall maintain strict confidentiality of all patient and client information or records supplied to it by the state agency or that the contractor establishes as a result of contract activities. The contents of such records shall not be disclosed to anyone other than the state agency and the patient/client or the patient's/client's parent or legal guardian unless such disclosure is required by law.
 - 1) The contractor assumes liability for all disclosures of confidential information by the contractor and/or the contractor's/provider's subcontractors and employees.
 - 2) The contractor agrees to comply with all applicable provisions of the Federal Standards for Privacy of Individually Identifiable Health Information (45 C.F.R. Parts 160 and 164).
- 1.6.14 Cooperative Procurement Program - If the contractor has indicated agreement on the Pricing Page with participation in the Cooperative Procurement Program, the contractor shall provide revenue maximization/cost avoidance services as described herein under the terms and conditions, requirements and specifications of the contract, including prices, to other government entities in accordance with the Technical Services Act (67.360 RSMo, which is available on the internet at: <http://www.moga.mo.gov/statutes/c000-099/0670000360.htm>.) The

contractor shall further understand and agree that participation by other governmental entities is discretionary on the part of that governmental entity and the State of Missouri bears no financial responsibility for any payments due the contractor by such governmental entities.

1.6.15 **Minority Business Enterprise/Women Business Enterprise (MBE/WBE) Participation** - The contractor must comply with the MBE/WBE participation levels committed to in the contractor's awarded proposal.

- a. The contractor shall prepare and submit to the Division of Purchasing and Materials Management periodic reports detailing all payments to MBE/WBEs participating in the contract. The report must include MBE/WBE payments for the reporting period. The report shall be submitted on a monthly basis unless otherwise determined by the Division of Purchasing and Materials Management.
- b. The Division of Purchasing and Materials Management and the Office of Supplier and Workforce Diversity (OSWD) will monitor the contractor's compliance in meeting the MBE/WBE participation levels committed to in the contractor's awarded proposal. If the contractor's payments to participating MBE/WBEs are less than the amount committed to in the contract, the state may cancel the contract, suspend or debar the contractor from participating in future state procurements, or retain payments to the contractor in an amount equal to the value of the MBE/WBE participation commitment less actual payments made by the contractor to MBE/WBEs. If the Division of Purchasing and Materials Management determines that the contractor is in compliance with the MBE/WBE participation commitment, the state will release the retained funds.
- c. If a participating MBE/WBE fails to retain their certification or is unable to satisfactorily perform, the contractor must obtain other certified MBE/WBEs to fulfill the MBE/WBE participation requirements committed to in the contractor's awarded proposal. The contractor must obtain the written approval of the Division of Purchasing and Materials Management for any new MBE/WBE participants. This approval shall not be arbitrarily withheld. If the contractor cannot obtain a MBE/WBE replacement, the contractor must submit documentation to the Division of Purchasing and Materials Management detailing all efforts made to secure an MBE/WBE replacement. The Division of Purchasing and Materials Management shall have sole discretion in determining if the actions taken by the contractor constitute a good faith effort to secure the participation of MBE/WBEs and whether the contract will be amended to change the MBE/WBE participation commitment.

1.7 Federal Funds Requirements - The contractor shall understand and agree that the contract may involve the use of federal funds. Therefore, for any federal funds used, the following paragraphs shall apply:

1.7.1 In performing its responsibilities under the contract, the contractor shall fully comply with the following Office of Management and Budget (OMB) administrative requirements and cost principles, as applicable, including any subsequent amendments, applicable implementing regulations, and all other laws, regulations, and policies authorizing or governing the use of any federal funds paid to the contractor through the contract:

- a. Uniform Administrative Requirements - A-102 - State/Local Governments; 2 CFR 215 - Hospitals, Colleges and Universities, For-Profit Organizations (if specifically included in federal agency implementation), and Not-For-Profit Organizations.
- b. Cost Principles - A-87 - State/Local Governments; A-122 - Not-For-Profit Organizations; A-21 - Colleges and Universities; 48 CFR 31.2 - For-Profit Organizations; 45 CFR 74 Appendix E - Hospitals

1.7.2 **Steven's Amendment** - In accordance with the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, Public Law 101-166, Section 511, "Steven's Amendment", the contractor shall not issue any statements, press releases, and other documents describing projects or programs funded in whole or in part with Federal money unless the prior approval of the state agency is obtained and unless they clearly state the following as provided by the state agency:

- a. The percentage of the total costs of the program or project which will be financed with Federal money;
- b. The dollar amount of Federal funds for the project or program; and
- c. The percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

- 1.7.3 The contractor shall comply with 31 U.S.C. 1352 relating to limitations on use of appropriated funds to influence certain federal contracting and financial transactions. No funds under the contract shall be used to pay the salary or expenses of the contractor, or agent acting for the contractor, to engage in any activity designed to influence legislation or appropriations pending before the United States Congress or Missouri General Assembly. The contractor shall comply with all requirements of 31 U.S.C. 1352 which is incorporated herein as if fully set forth. The contractor shall submit to the state agency, when applicable, Disclosure of Lobbying Activities reporting forms.
- 1.7.4 The contractor shall comply with the requirements of the Single Audit Act of 1984 (P.L. 98-502), the Single Audit Act Amendments of 1996 (P.L. 104-156), and OMB Circular A-133, including subsequent amendments or revisions, as applicable or 2 CFR 215.26 as it relates to for-profit hospitals and commercial organizations. A copy of any audit report shall be sent to the state agency at the address used for invoicing each contract year if applicable. The contractor shall return to the state agency any funds disallowed in an audit of the contract.
- 1.7.5 The contractor shall comply with the Pro-Children Act of 1994 (20 U.S.C. 6081), which prohibits smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.
- 1.7.6 The contractor shall comply with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations, as applicable.
- 1.7.7 The contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).
- 1.7.8 Non-Discrimination and ADA - The contractor shall comply with all federal and state statutes, regulations and executive orders relating to nondiscrimination and equal employment opportunity. These include but are not limited to:
- a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, or national origin (this includes individuals with limited English proficiency) in programs and activities receiving federal financial assistance and Title VII of the Act which prohibits discrimination on the basis of race, color, national origin, sex, or religion in all employment activities;
 - b. Equal Pay Act of 1963 (P.L. 88 -38, as amended, 29 U.S.C. Section 206 (d));
 - c. Title IX of the Education Amendments of 1972, as amended (20 U.S.C 1681-1683 and 1685-1686) which prohibits discrimination on the basis of sex;
 - d. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) which prohibit discrimination on the basis of disabilities;
 - e. The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) which prohibits discrimination on the basis of age;
 - f. Equal Employment Opportunity – E.O. 11246, “Equal Employment Opportunity”, as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity”;
 - g. Missouri State Regulation, 19 CSR 10-2.010, Civil Rights Requirements; and
 - h. The requirements of any other nondiscrimination federal and state statutes, regulations and executive orders which may apply to the services provided via the contract.

1.8 Business Associate Provisions:

- 1.8.1 Health Insurance Portability and Accountability Act of 1996 (HIPAA) - The state agency is subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all regulations promulgated pursuant to authority granted therein. The contractor constitutes a “Business Associate” of the state agency as such term is defined in the Code of Federal Regulations (CFR) at 45 CFR 160.103. Therefore, the term, “contractor” as used in this section shall mean “Business Associate.”
- a. The contractor shall agree and understand that for purposes of the Business Associate Provisions contained herein, terms used but not otherwise defined shall have the same meaning as those terms defined in 45 CFR parts 160 and 164, including, but not limited to the following:

- 1) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
 - 2) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR part 164, subpart C.
 - 3) "Enforcement Rule" shall mean the HIPAA Administrative Simplification: Enforcement; Final Rule at 45 CFR parts 160 and 164.
 - 4) "Individual" shall have the same meaning as the term "individual" in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502 (g).
 - 5) "Protected Health Information" as defined in 45 CFR 160.103, shall mean individually identifiable health information:
 - (1) Except as provided in paragraph (2) of this definition, that is: (i) Transmitted by electronic media; or (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.
 - (2) Protected Health Information excludes individually identifiable health information in (i) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; (ii) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and (iii) Employment records held by a covered entity [state agency] in its role as employer.
 - 6) "Electronic Protected Health Information" shall mean information that comes within paragraphs (1)(i) or (1)(ii) of the definition of protected health information as specified above.
 - 7) Access, administrative safeguards, confidentiality, covered entity, data aggregation, designated record set, disclosure, hybrid entity, information system, physical safeguards, required by law, technical safeguards, use and workforce shall have the same meanings as defined in 45 CFR 160.103, 164.103, 164.304, and 164.501 and HIPAA.
- b. The contractor agrees and understands that wherever in this document the term Protected Health Information is used, it shall also be deemed to include Electronic Protected Health Information.
 - c. The contractor must appropriately safeguard Protected Health Information which the contractor receives from or creates or receives on behalf of the state agency. To provide reasonable assurance of appropriate safeguards, the contractor shall comply with the business associate provisions stated herein.
 - d. The state agency and the contractor agree to amend the contract as is necessary for the parties to comply with the requirements of HIPAA and the Privacy Rule, Security Rule, and Enforcement Rule (hereinafter referenced as the regulations promulgated thereunder).

1.8.2 Permitted uses and disclosures of Protected Health Information:

- a. The contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the state agency as specified in the contract, provided that such use or disclosure would not violate HIPAA and the regulations promulgated thereunder.
- b. The contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1) and shall notify the state agency by no later than ten (10) calendar days after the contractor becomes aware of the disclosure of the Protected Health Information.
- c. If required to properly perform the contract and subject to the terms of the contract, the contractor may use or disclose Protected Health Information if necessary for the proper management and administration of the contractor's business.
- d. If the disclosure is required by law, the contractor may disclose Protected Health Information to carry out the legal responsibilities of the contractor.
- e. The contractor may use Protected Health Information to provide Data Aggregation services to the state agency as permitted by 45 CFR 164.504(e)(2)(i)(B).

1.8.3 Obligations of the Contractor:

- a. The contractor shall not use or disclose Protected Health Information other than as permitted or required by the contract or as otherwise required by law.
- b. The contractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by the contract. Such safeguards may include, but shall not be limited to:
 - 1) Workforce training on the appropriate uses and disclosures of Protected Health Information pursuant to the terms of the contract.
 - 2) Policies and procedures implemented by the contractor to prevent inappropriate uses and disclosures of Protected Health Information by its workforce.
 - 3) Any other safeguards necessary to prevent the inappropriate use or disclosure of Protected Health Information.
- c. With respect to Electronic Protected Health Information, the contractor shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic Protected Health Information that contractor creates, receives, maintains or transmits on behalf of the state agency.
- d. The contractor shall require that any agent or subcontractor to whom the contractor provides any Protected Health Information received from, created by, or received by the contractor pursuant to the contract, also agrees to the same restrictions and conditions stated herein that apply to the contractor with respect to such information.
- e. By no later than ten (10) calendar days of receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall make the contractor's internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, created by, or received by the contractor on behalf of the state agency available to the state agency and/or to the Secretary of the Department of Health and Human Services or designee for purposes of determining compliance with the Privacy Rule.
- f. The contractor shall document any disclosures and information related to such disclosures of Protected Health Information as would be required for the state agency to respond to a request by an individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528. By no later than five (5) calendar days of receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall provide an accounting of disclosures of Protected Health Information regarding an individual to the state agency.
- g. In order to meet the requirements under 45 CFR 164.524, regarding an individual's right of access, the contractor shall, within five (5) calendar days following a state agency request, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, provide the state agency access to the Protected Health Information in an individual's designated record set. However, if requested by the state agency, the contractor shall provide access to the Protected Health Information in a designated record set directly to the individual for whom such information relates.
- h. At the direction of the state agency, the contractor shall promptly make any amendment(s) to Protected Health Information in a Designated Record Set pursuant to 45 CFR 164.526.
- i. The contractor shall report to the state agency's Security Officer any security incident immediately upon becoming aware of such incident and shall take immediate action to stop the continuation of any such incident. For purposes of this paragraph, security incident shall mean the attempted or successful unauthorized access, use, modification or destruction of information or interference with systems operations in an information system. This does not include trivial incidents that occur on a daily basis, such as scans,

“pings,” or unsuccessful attempts that do not penetrate computer networks or servers or result in interference with system operations. By no later than five (5) days after the contractor becomes aware of such incident, the contractor shall provide the state agency’s Security Officer with a description of any remedial action taken to mitigate any harmful effect of such incident and a proposed written plan of action for approval that describes plans for preventing any such future security incidents.

- j. The contractor shall report to the state agency’s Privacy Officer any unauthorized use or disclosure of Protected Health Information not permitted or required as stated herein immediately upon becoming aware of such use or disclosure and shall take immediate action to stop the unauthorized use or disclosure. By no later than five (5) calendar days after the contractor becomes aware of any such use or disclosure, the contractor shall provide the state agency’s Privacy Officer with a written description of any remedial action taken to mitigate any harmful effect of such disclosure and a proposed written plan of action for approval that describes plans for preventing any such future unauthorized uses or disclosures.

1.8.4 Obligations of the State Agency:

- a. The state agency shall notify the contractor of limitation(s) that may affect the contractor’s use or disclosure of Protected Health Information, by providing the contractor with the state agency’s notice of privacy practices in accordance with 45 CFR 164.520.
- b. The state agency shall notify the contractor of any changes in, or revocation of, authorization by an Individual to use or disclose Protected Health Information.
- c. The state agency shall notify the contractor of any restriction to the use or disclosure of Protected Health Information that the state agency has agreed to in accordance with 45 CFR 164.522.
- d. The state agency shall not request the contractor to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA and the regulations promulgated thereunder.

1.8.5 Expiration/Termination/Cancellation - Except as provided in the subparagraph below, upon the expiration, termination, or cancellation of the contract for any reason, the contractor shall, at the discretion of the state agency, either return to the state agency or destroy all Protected Health Information received by the contractor from the state agency, or created or received by the contractor on behalf of the state agency, and shall not retain any copies of such Protected health Information. This provision shall also apply to Protected Health Information that is in the possession of subcontractor or agents of the contractor.

- a. In the event the state agency determines that returning or destroying the Protected Health Information is not feasible, the contractor shall extend the protections of the contract to the Protected health Information for as long as the contractor maintains the Protected health Information and shall limit the use and disclosure of the Protected health Information to those purposes that made return or destruction of the information infeasible. If at any time it becomes feasible to return or destroy any such Protected Health Information maintained pursuant to this paragraph, the contractor must notify the state agency and obtain instructions from the state agency for either the return or destruction of the Protected Health Information.

1.8.6 Breach of Contract – In the event the contractor is in breach of contract with regard to the business associate provisions included herein, the contractor shall agree and understand that in addition to the requirements of the contract related to cancellation of contract, if the state agency determines that cancellation of the contract is not feasible, the State of Missouri may elect not to cancel the contract, but the state agency shall report the contractual breach to the Secretary of the Department of Health and Human Services.