



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

**NOTIFICATION OF STATEWIDE CONTRACT**

July 22, 2013

**CONTRACT TITLE:** Over the Phone Foreign Language Interpretation Services

**CURRENT CONTRACT PERIOD:** May 1, 2013 through April 30, 2014

**CONTRACT CONTACT:**

Nancy Bochat  
Information Technology Services Division  
Phone: 573-751-5067  
E-mail: [nancy.bochat@oa.mo.gov](mailto:nancy.bochat@oa.mo.gov)

**BUYER INFORMATION:**

Megan Howser  
Phone: 573-751-1686  
Email address: [megan.howser@oa.mo.gov](mailto:megan.howser@oa.mo.gov)

RENEWAL INFORMATION	Original Contract Period	Potential Final Expiration
	May 1, 2013 through April 30, 2014	April 30, 2016

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

THE USE OF THIS CONTRACT IS **PREFERRED** FOR ALL STATE AGENCIES.

Local Purchase Authority **should not** be used to purchase supplies/services included in this contract unless it is determined to be in the best interest of the State of Missouri for a state agency to obtain alternative services elsewhere.

The entire contract document may be viewed and printed from the Division of Purchasing & Materials Management's **Awarded Bid & Contract Document Search** located on the Internet at <http://www.oa.mo.gov/purch>.

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

CONTRACT NUMBER	VENDOR NUMBER	VENDOR INFORMATION	MBE/WBE	COOP PROCUREMENT
C313089001	2735139530 0	AVAZA Language Services Corporation 5209 Linbar Drive, Suite 603 Nashville TN 37211 Phone: 615-364-2600 Fax: 615-810-8506 Email: <a href="mailto:m.nguyen@avaza.co">m.nguyen@avaza.co</a>	No	Yes

## 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.

<b>Contract Period</b>	<b>Issue Date</b>	<b>Summary of Changes</b>
05/01/13 thru 04/30/14	07/22/13	<b>Updated the Customer Survey form attached to this Statewide Notice.</b>
05/01/13 thru 04/30/14	06/11/13	Added the notes below.
05/01/13 thru 04/30/14	05/14/13	Corrected the contractors name on the Customer Survey Form.
05/01/13 thru 04/30/14	04/11/13	Initial issuance of new statewide contract

### **NOTES:**

The contractor shall provide their first and last name in addition to any other requested identifying information, upon the request of the state agency utilizing the contractor's services.

**INSTRUCTIONS FOR STATE AGENCIES FOR  
OVER THE TELEPHONE FOREIGN LANGUAGE INTERPRETATION**

1. If a client requests that a volunteer, friend, family member, etc. provide interpretation services, the state agency may utilize the volunteer, friend, family member, etc. to provide services. However, the state agency is advised that, in accordance with a review of Executive Order 13166 regarding Limited English Proficiency (LEP), “Generally, it is not acceptable for agencies or recipients to rely upon an LEP individual’s family members or friends to provide interpreter services. The agency or recipient should meet its obligations under EO 13166 or Title VI by supplying competent language services free of cost. In rare emergency situations, the agency or recipient may have to rely on an LEP person’s family members or other persons whose language skills and competency in interpreting have not been established.” - Ref. Federal Register: August 16, 2000 (volume 65, Number 11).

Furthermore, state agencies are advised that by utilizing a volunteer, friend, family member, etc., they may be in violation of Title VI of the 1964 Civil Rights Act. For further information on the Civil Rights’ Title VI Limited English Proficiency (LEP) Policy Guidance, state agencies may contact:

U.S. Department of Health and Human Services  
Office for Civil Rights, Region VII  
601 East 12th Street, Room 248  
Kansas City, Missouri 64106  
Phone: 816-426-7238 or 800-368-1019

2. In order for a state agency to obtain services via this contract, the state agency must have an account established with the contractor prior to the need for such services. The state agency must send a written signed request on state agency letterhead requesting the establishment of an account. The request must include the name of the department, division, state agency contact including telephone number and fax number, the address which invoices must be sent to, and to whom and where training materials should be sent. In addition, if sub-unique codes are required by the state agency, the state agency will need to indicate the number of sub-access codes required. It will take up to five (5) days for the account to be established.
3. State agencies are encouraged to complete the customer survey attached to the end of the statewide notice regarding the contract and contractor performance.
4. If your state agency encounters any problems regarding quality of the service or timeliness of service, complaints should be sent in writing to Nancy Bochat, Division of Information Services.
  - 4.1 In addition, to help monitor the performance of the contractor and ensure quality services are provided to state agencies, state agencies are strongly encouraged to document instances when the contractor is unable to provide the requested services and submit such documentation to the attention of Nancy Bochat, Division of Information Systems.
5. If your state agency is a covered entity you will need to have the contractor sign a Business Associate Agreement as specified in the confidentiality requirements herein.

## **1. CONTRACTUAL REQUIREMENTS**

### **1.1 General Requirements:**

- 1.1.1 The contractor shall provide over the phone language interpretation services (hereinafter referred to as language interpretation) for clients of any requesting state agency of the State of Missouri (hereinafter referred to as the state agency) on behalf of the State of Missouri Office of Administration, Information Services Technology Division, in accordance with the provisions and requirements stated herein.
  - a. For purposes of this document, language interpretation shall be defined as the interpretation of English to a foreign language, including dialects of foreign languages, or the interpretation of a foreign language, including dialects of a foreign language, to English. Dialect shall be defined as the local tongue, derivation, or idiom of a language. Foreign language shall be defined as any language, including Native American languages, other than English.
  - b. The contractor shall understand and agree that clients of the state agency may include mental health patients, children, families affected by child abuse and neglect, the elderly, international customers, criminal defendants, head injury patients, disabled people, witnesses and parties in non-criminal court proceedings, customers, and employees.
  - c. The contractor shall understand and agree that services shall include both scheduled and on-demand services.
- 1.1.2 The contractor shall begin providing language interpretation services to requesting state agencies within thirty (30) calendar days following the effective date of the contract.
- 1.1.3 The contractor shall provide services on an as needed, if needed basis, seven (7) days a week, twenty-four (24) hours per day, three hundred and sixty-five (365) days per year. The State of Missouri does not guarantee any usage of the contract whatsoever. The contractor shall agree and understand that the contract shall be construed as a preferred use contract but shall not be construed as an exclusive arrangement. Preferred use means that any state agency needing the services should use the established contract unless it is determined to be in the best interest of the State of Missouri for a state agency to obtain alternate services elsewhere.
- 1.1.4 In the event a client requests a volunteer, friend, family member, etc. to provide language interpretation services, the contractor shall agree and understand that the state agency may utilize a volunteer, friend, family member, etc. to provide the necessary language interpretation services.
- 1.1.5 Cooperative Procurement Program – If the contractor has indicated agreement on the (Exhibit B) with participation in the Cooperative Procurement Program, the contractor shall provide language interpretation 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 (section 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.
  - a. In addition and on a case-by-case basis, the contractor may agree to provide language interpretation services to direct client service providers or grantees of a state agency. The contractor shall further understand and agree that the State of Missouri bears no responsibility, nor financial liability for any such services.
- 1.1.6 The contractor shall perform all services to the sole satisfaction of the state agency.
- 1.1.7 Unless otherwise specified herein, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to perform the services required herein.

### **1.2 Contractor Personnel Requirements:**

- 1.2.1 The person designated by the contractor to provide language interpretation services (hereinafter referred to as the interpreter), must possess sufficient education, training, and experience to proficiently interpret verbal communications from English to a foreign language and from a foreign language to English.
- a. The contractor shall agree and understand that the demonstrated proficiency of the interpreter shall be to the sole satisfaction of the utilizing state agency. In addition, the contractor shall agree and understand to replace any interpreter that does not demonstrate satisfactory proficiency, as determined by the utilizing state agency.
  - b. Contractor personnel interpreting capabilities shall include, but not be limited to interpreting medical concepts/language, medical brochures, mental health testing and evaluation, mental health therapy, mental health topics in therapeutic situations, legal topics/concepts that focus on a client's incarcerations, capacity, etc., and highly technical concepts such as data processing terms. Interpreters with specialized skills should be the preferred interpreters for providing services including such topics.
  - c. The event a conflict or problem occurs with an interpreter(s) provided by the contractor, the state agency shall immediately notify the contractor.
- 1.2.2 The contractor and the contractor's interpreters shall not provide advice or express opinions on the subject matter being discussed during a language interpretation session. In addition, the contractor and the contractor's interpreters shall not add to, delete from, or attempt to change or alter the specific meaning of the communication being interpreted.
- 1.2.3 The contractor and the contractor's interpreters shall be culturally competent, sensitive, and respectful of the client(s) for which language interpretation services are provided.

### **1.3 Performance Requirements:**

#### 1.3.1 Physical Environment:

- a. The physical environment from which the interpreter provides interpretation services is very important. There may be numerous factors which impede effective and efficient delivery of language interpretation services and the contractor and the contractor's interpreters must avoid any of those circumstances. The contractor and the contractor's interpreters must consider the following when providing language interpretation services:
  - 1) The contractor's interpreter must be able to hear the incoming voice. The area used for language interpretation services must be as quiet as possible (e.g. free of vehicular traffic, people talking, telephones ringing, etc.) and must be free of distractions that would divert attention or interfere with providing language interpretation services.

#### 1.3.2 Equipment Requirements:

- a. The contractor shall have a fax machine with a toll-free number in order to accept site interpretation forms, etc. In addition, the contractor shall have internet access in order to accept site interpretation forms electronically.
- b. The contractor shall provide a line free of any interference (e.g. call waiting, beeping, or other features that would be distracting or interfere in any way).
- c. The contractor shall possess equipment with the following features:
  - 1) A binaural headset (e.g. an earpiece for each ear instead of a hand-held telephone).
  - 2) A noise-cancelling microphone attached to the headset.
  - 3) Volume control.
- d. The contractor and the contractor's interpreters shall not utilize cell phones, pay phones, or cordless phones unless, due to special circumstances, permission has been granted by a state agency. However, in the event

any of the above-mentioned are utilized, the contractor shall ensure that cell phones and cordless phones do not completely discharge while providing language interpretation services.

- e. The contractor shall have a system in place so that state agencies never receive a busy signal when calling the contractor to request language interpretation services. The contractor may utilize an answering service. In addition, the contractor's system shall allow phone calls to "rollover" in the event that all interpreters are busy so that callers are placed on hold and serviced in the order the call was received.

#### 1.3.3 Phone Access Requirements:

- a. The contractor shall provide a toll-free phone number to the state agencies for use in contacting interpreters.
- b. The contractor shall ensure services proceed uninterrupted. The contractor should have a back-up emergency facility in case of emergencies.
- c. The contractor shall have the ability to provide three-way interpreting services if requested by a state agency.
- d. The contractor shall have a system in place to assign each state agency a unique identification code prior to the provision of services under the contract. If requested by a state agency, the contractor shall provide an additional unique sub-identification code(s) that may be assigned to a state agency's different divisions, employees, or outlying offices. The contractor shall allow a state agency to choose their own unique sub-identification code(s) for their divisions, employees, and outlying offices. In the event a state agency is not allowed to choose their own unique sub-identification code(s), the contractor shall have an easily identifiable breakdown of unique sub-identification codes for each state agency utilizing the contract.
- e. The contractor shall have an average connect time of less than one (1) minute. However, in no event shall the connect time be greater than five (5) minutes.
- f. The contractor shall not begin charging the state agency for services provided until the contractor's interpreter is on the line providing services (e.g. if the state agency or the state agency client is on hold waiting for language interpretation services, the state agency shall not be charged for such hold time).

#### 1.3.4 State Agency Enrollment:

- a. The contractor shall only provide services to state agencies that have enrolled with the contractor. The contractor shall only accept enrollment requests on state agency letterhead or from a mo.gov email address. The contractor shall not charge an enrollment fee.
- b. Within five (5) working days following a state agency's enrollment, the contractor shall provide the state agency with the name, address, and phone number of the contractor's representative(s) that will service the state agency in the event of questions and scheduling of assignments.

1.3.5 On-Demand Service Assignments – The state agencies estimate that the majority of language interpretation services required will be on an on-demand basis and cannot be scheduled in advance. Language interpretation services may be required at the time the state agency phones the contractor. In such event, the contractor shall provide language interpretation services upon receiving a call from a state agency. If the contractor is unable to provide language interpretation services within the timeframe specified herein, the state agency shall report such to the Information Technology Services Division. In the event the contractor is unable to perform language interpretation services on a consistent basis as determined by the Division of Purchasing and Materials Management (hereinafter referred to as DPMM), the contractor may be considered to be in breach of contract and appropriate action may be pursued by the State of Missouri.

#### 1.3.6 Scheduled Assignments:

- a. The contractor shall coordinate all language interpretation assignments with the state agency requesting such language interpretation services. The contractor shall understand and agree that the contractor shall be under

the direction of the specific state agency personnel within the requesting state agency regarding the provision of language interpretation services.

- b. The contractor shall either directly provide language interpretation services or shall arrange for the provision of language interpretation services within the timeframe requested by a state agency.
- c. Upon the request by a state agency, the contractor shall provide references and resumes for a maximum of six (6) interpreters for each request for language interpretation services.
- d. A state agency reserves the right to reject any or all of the interpreters selected by the contractor as unacceptable. A state agency shall provide the contractor with written justification for each interpreter rejection within five (5) working days of such rejection.
  - 1) In addition, the contractor shall agree and understand that a state agency shall have the right to reject an interpreter based on prior experience(s). A state agency should provide the contractor with justification for such rejection; however, the decision made by a state agency regarding the use of a rejected interpreter shall be final and without recourse.
- e. The contractor should refuse to provide language interpretation services if competent interpreters in a language requested by a state agency are not available in accordance with the schedule required by a state agency. If language interpretation services are not refused by the contractor at the time a state agency requests language interpretation services from the contractor, the contractor must notify the state agency within twenty-four (24) hours prior to the scheduled language interpretation service that a competent interpreter in the state agency requested language is no longer available.
  - 1) In addition, the contractor may refuse to provide language interpretation services if cultural differences exist between the contractor's interpreter and the state agency client.
- f. In the event a conflict or problem occurs with the contractor's interpreter, the state agency should notify the contractor as soon as possible.
- g. In the event a scheduled interpreter is unable to keep a language interpretation appointment, the contractor shall notify the requesting state agency in advance of such. The contractor shall make every effort to provide at least twenty-four (24) hours notice. The contractor shall attempt to provide a substitute interpreter with credentials and specialized skills equal to the originally scheduled interpreter. The contractor shall not charge additional fees for providing a substitute interpreter.
  - 1) In the event the contractor is unable to provide a substitute interpreter for reasons beyond the contractor's control, the contractor must notify the requesting state agency of the contractor's inability to perform the requested services.
    - Notifying the state agency in advance shall relieve the contractor from providing a substitute interpreter for only that particular interpreting assignment.

#### 1.3.7 Security Screenings/Clearance:

- a. For scheduled services only and if requested by a state agency, any interpreter provided by the contractor must have a successful security background check performed by the requesting state agency prior to the provision of services under the contract. A Security Release Authorization Form, provided as Attachment 1, must be completed, individually signed, and returned to the state agency by the contractor and each of the contractor's interpreters for which a security background check is requested.
  - 1) Listed below are additional screenings, but not necessarily all screenings that a state agency may conduct for interpreters proposed to provide interpretation services:
    - A lifetime criminal background check.

- A driver and motor vehicle check.
- A social security number verification.
- A five (5) year work history check.
- A drug screening.
- An abuse and neglect screening.
- A Medicaid fraud screening.

b. A state agency shall be responsible for all costs related to background checks and screenings.

**1.3.8 Contractor Training Requirements:**

a. The contractor must have a training program for state agency personnel regarding how to use language interpretation services. The contractor must provide the training program to each individual requesting state agency within ten (10) working days following the request by a state agency, unless otherwise agreed by a state agency.

1) The training program may be an automated phone recording, a video recording, etc. that can be mailed or electronically provided to a state agency upon request.

b. The contractor must provide each state agency with a brochure, pamphlet, poster, or other written materials so that a state agency client that speaks a foreign language may identify the foreign language they speak to the state agency by pointing to the appropriate language on the written materials. The written materials should include all major foreign languages. The contractor shall not charge a state agency for such materials.

**1.3.9 Additional Contractor Performance Requirements:**

a. The interpreters provided by the contractor must accurately interpret all terminology and concepts related to the language being interpreted.

b. In the event a state agency cannot determine the foreign language for which language interpretation services are required, the contractor or the contractor's interpreter must be able to determine such after speaking with the state agency's client.

**1.4 Contractor Reporting Requirements:**

1.4.1 The contractor must submit quarterly reports to state agencies that have utilized the contract in an electronic format, as specified by the state agency. The quarterly reports shall include the following information:

- a. The state agency's unique identification code.
- b. A breakdown of the languages interpreted.
- c. The number of phone calls in which interpreters were required.
- d. The date, time, and average connect time of such phone calls.
- e. An indication of whether a call was scheduled or on-demand.
- f. The total dollar amount charged for each call.

1.4.2 The contractor shall provide a copy of each report submitted to a state agency to the Information Technology Services Division at the following address:

Information Technology Services Division  
 Attn: Telecommunications Manager  
 PO Box 309  
 Room 280  
 Jefferson City, MO 65102

1.4.3 The contractor shall also provide a copy of each report submitted to a state agency to the DPMM, in a format specified by the DPMM.

## **1.5 State Agency Requirements:**

- 1.5.1 State agencies that utilize the contract will send the contractor a written, signed request referencing the contract number on state agency letterhead requesting that an account be established. The state agency will include the name of the department, the division, the state agency contact including phone, fax, and email address, the address in which invoices must be sent to, and to when and when training materials should be sent when requesting language interpretation services. In addition, if unique sub-identification codes are required, the state agency will indicate how many sub-identification codes are required.
- 1.5.2 The state agency will instruct the contractor on the nature of the call and what type of information is required to be interpreted. In addition, the state agency will attempt to give the contractor as much background information as possible including, but not limited to client name, cultural background, etc. In the event the state agency does not know the language to be interpreted, the state agency will immediately advise the interpreter or some other contractor personnel.
- 1.5.3 The state agency shall attempt to give the contractor at least twenty-four (24) hours notice of a cancellation of a language interpretation service previously scheduled.
- 1.5.4 The state agency will provide their own phone lines and phones.

## **1.6 Liquidated Damages Requirements:**

- 1.6.1 The contractor shall agree and understand that the provision of language interpretation services in accordance with the requirements and delivery schedule stated herein is considered critical to the efficient operations of the State of Missouri. However, since the amount of actual damages would be difficult to establish in the event the contractor fails to comply with the requirements and delivery schedule, the contractor shall agree and understand that the amounts identified below as liquidated damages shall be reasonable and fair under the circumstances.
  - a. In the event that the contractor is more than fifteen (15) minutes late in providing a scheduled language interpretation service, the contractor shall be charged liquidated damages equal to the firm, fixed price per minute for fifteen (15) minutes for the appropriate language interpretation service and time of day as specified on the Pricing Pages of the contractor's awarded proposal.
  - b. If the contractor's interpreter does not provide a scheduled or on-demand language interpretation service and fails to provide a replacement interpreter, the contractor shall be charged liquidated damages for late services equal to the firm, fixed price for one hundred and twenty (120) minutes for the appropriate language interpretation service and time of day as specified on the Pricing Pages of the contractor's awarded proposal. In addition, if it is necessary for the state agency to obtain interpretation services elsewhere as a result of the contractor's inability to provide language interpretation services, the contractor shall be charged any difference between the prices charged by the replacement source and what the contractor's services would have cost based on the price per minute for the appropriate language in accordance with the contractor's awarded proposal.
  - c. In addition to the liquidated damages specified above, the contractor shall be charged liquidated damages in the amount of twenty-five dollars (\$25) for the state agency's administrative time and expenses for processing the liquidated damages. If the state agency obtains language interpretation services from a replacement source, the contractor shall be charged liquidated damages in the amount of twenty-five dollars (\$25) for the state agency's administrative time and expenses for locating a replacement source.
  - d. The contractor shall also agree and understand that such liquidated damages shall either be deducted from the contractor's invoices pursuant to the contract or paid by the contractor as a direct payment to the state agency at the sole discretion of the state agency.
  - e. The contractor shall understand that the liquidated damages described herein shall not be construed as a penalty.

- f. The contractor shall agree and understand that all assessments of liquidated damages shall be within the discretion of the State of Missouri and shall be in addition to, not in lieu of, the rights of the State of Missouri to pursue other appropriate remedies.

## **1.7 Invoicing and Payment Requirements:**

- 1.7.1 Prior to any payments becoming due under the contract, the contractor must return a completed state Vendor Input/ACH-EFT Application, which is downloadable from the Vendor Services Portal at:  
<https://www.vendorservices.mo.gov/vendorservices/Portal/Default.aspx>
  - a. The contractor understands and agrees that the State of Missouri reserves the right to make contract payments through electronic funds transfer (EFT).
  - b. The contractor must submit invoices on the contractor's original descriptive business invoice form and must use a unique invoice number with each invoice submitted. The unique invoice number will be listed on the State of Missouri's EFT addendum record to enable the contractor to properly apply the state agency's payment to the invoice submitted. The contractor may obtain detailed information for payments issued for the past 24 months from the State of Missouri's central accounting system (SAM II) on the Vendor Services Portal at:  
<https://www.vendorservices.mo.gov/vendorservices/Portal/Default.aspx>
- 1.7.2 Invoicing – The contractor shall submit monthly itemized invoices, by each unique sub-identification code, to the state agencies for which language interpretation services were provided. The invoices shall state the contract number, the contractor's federal identification number, the language interpreted, the length of the interpretation service, and the date and time that the language interpretation service was provided.
- 1.7.3 Payments – The contractor shall be paid in accordance with the applicable firm, fixed prices stated on the Pricing Page of the contractor's awarded proposal, less any liquidated damages assessed, if any. Language interpretation services shall be rounded up to the next minute. In the event the total time of the language interpretation is less than thirty (30) seconds, the contractor shall be paid for one (1) minute of service. In addition, the following shall apply:
  - a. The contractor shall not charge a minimum fee per month, per state agency.
  - b. Daytime rates shall apply from 5:00 a.m. to 5:00 p.m. Central Standard Time Monday through Friday.
  - c. Night rates shall apply from 5:01 p.m. until 4:59 a.m. Central Standard Time Monday through Friday.
  - d. Weekend rates shall apply from 5:01 Central Standard Time on Friday evening until 4:59 a.m. Monday morning.
  - e. Holiday rate shall apply during designated State of Missouri holidays as specified on the following internet address: <http://oa.mo.gov/pers/StateHolidays.htm>
  - f. In the event scheduled services are cancelled by a state agency without at least twenty-four (24) hours notice, the contractor shall be paid the applicable firm, fixed price for such as stated on the Pricing Page of the contractor's awarded proposal.
- 1.7.4 In the event the state agency requires the contractor to provide three-way language interpretation services that result in the contractor contacting a third party through an international call, the contractor shall be reimbursed for the actual and reasonable international phone expenses in addition to the firm, fixed price per minute for the applicable language interpretation service.

- 1.7.5 In the event the language interpretation service provided was incomplete, inaccurate, or improperly or incompetently performed as determined by a state agency, the contractor shall not receive payment for such services.
- 1.7.6 In no event shall the contractor invoice for any services which could include, but not be limited to any of the following:
- a. State agency or client enrollment fees.
  - b. Minimum time, either per call or per minute.
  - c. Time while on hold or any other time until an interpreter is able to provide language interpretation services.
- 1.7.7 Each state agency shall only be responsible for the payment of services provided to that state agency.
- 1.7.8 Other than the payments and reimbursements specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.
- 1.7.9 Notwithstanding any other payment provision of the contract, if the contractor fails to perform the required work or services, fails to submit reports when due, or is indebted to the United States, the state agency may withhold payment or reject invoices under the contract.
- 1.7.10 Final invoices are due by no later than thirty (30) calendar days following the expiration of the contract. A state agency shall have no obligation to pay any invoice submitted after such date.
- 1.7.11 If a request by the contractor for payment or reimbursement is denied, the state agency shall provide the contractor with written notice of the reason(s) for denial.
- 1.7.12 If the contractor is overpaid by the state agency, upon official notification by the state agency, the contractor shall (1) provide the state agency with a check payable as instructed by the state agency in the amount of such overpayment at the address specified by the state agency or (2) shall deduct the overpayment from the monthly invoice(s), as requested by the state agency.

## **1.8 Other Contractual Requirements:**

- 1.8.1 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”. 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 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 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.
- 1.8.2 Contract Period – The original contract period shall be as stated on the cover page of the Request for Proposal. 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 two (2) 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.

- 1.8.3 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 price for the applicable renewal period stated on the Pricing Page of the contract.
- a. If renewal prices are not provided, then prices during renewal periods shall be the same as during the original contract period.
  - b. In addition, the contractor shall understand and agree that renewal period price increases specified in the contract are not automatic. At the time of contract renewal, if the state determines funding does not permit the specified renewal pricing increase or even a portion thereof, the renewal pricing shall remain the same as during the previous contract period. If such action is rejected by the contractor, the contract may be terminated, and a new procurement process may be conducted. The contractor shall also understand and agree the state may determine funding limitations necessitate a decrease in the contractor’s pricing for the renewal period(s). If such action is necessary and the contractor rejects the decrease, the contract may be terminated, and a new procurement process may be conducted.
- 1.8.4 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 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.
- 1.8.5 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.
- 1.8.6 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. General and other non-professional liability insurance shall include an endorsement that adds the State of Missouri as an additional insured. Self-insurance coverage or another alternative risk financing mechanism may be utilized provided that such coverage is verifiable and irrevocably reliable and the State of Missouri is protected as an additional insured.

- 1.8.7 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. Pursuant to subsection 1 of section 285.530, RSMo, no contractor or subcontractor shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. In accordance with sections 285.525 to 285.550, RSMo, a general contractor or subcontractor of any tier shall not be liable when such contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of section 285.530, RSMo, if the contract binding the contractor and subcontractor affirmatively states that:
    - 1) The direct subcontractor is not knowingly in violation of subsection 1 of section 285.530, RSMo, and shall not henceforth be in such violation.
    - 2) The contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor’s employees are lawfully present in the United States.
- 1.8.8 Participation by Other Organizations – The contractor must comply with any Organization for the Blind/Sheltered Workshop, 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 a report detailing all payments made by the contractor to Organizations for the Blind/Sheltered Workshops, participating in the contract for the reporting period. The contractor must submit the report on a monthly basis, unless otherwise determined by the Division of Purchasing and Materials Management.
  - b. The Division of Purchasing and Materials Management will monitor the contractor’s compliance in meeting the Organizations for the Blind/Sheltered Workshop participation levels committed to in the contractor’s awarded proposal. If the contractor’s payments to the participating entities are less than the amount committed, the state may cancel the contract and/or 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 participation commitment less actual payments made by the contractor to the participating entity. If the Division of Purchasing and Materials Management determines that the contractor becomes compliant with the commitment, any funds retained as stated above, will be released.
  - c. If a participating entity fails to retain the required certification or is unable to satisfactorily perform, the contractor must obtain other organizations for the blind/sheltered workshops to fulfill the participation requirements committed to in the contractor’s awarded proposal.
    - 1) The contractor must obtain the written approval of the Division of Purchasing and Materials Management for any new entities. This approval shall not be arbitrarily withheld.
    - 2) If the contractor cannot obtain a replacement entity, the contractor must submit documentation to the Division of Purchasing and Materials Management detailing all efforts made to secure a 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 required participation and whether the contract will be amended to change the contractor’s participation commitment.

- d. Within thirty (30) calendar days of the end of the original contract period, the contractor must submit an affidavit to the Division of Purchasing and Materials Management. The affidavit must be signed by the director or manager of the participating Organizations for the Blind/Sheltered Workshop verifying provision of products and/or services and compliance of all contractor payments made to the Organizations for the Blind/Sheltered Workshops. The contractor may use the affidavit available on the Division of Purchasing and Materials Management's internet site at <http://oa.mo.gov/purch/vendor.html> or another affidavit providing the same information.

1.8.9 Substitution of Personnel – The contractor agrees and understands that any substitution of the specific key individual(s) and/or personnel qualifications identified in the proposal must be with individual(s) of equal or better qualifications than originally proposed.

1.8.10 Authorized Personnel:

- a. The contractor shall only employ personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
- b. If the contractor is found to be in violation of this requirement or the applicable state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States, the state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the state. The state may also withhold up to twenty-five percent (25%) of the total amount due to the contractor.
- c. The contractor shall agree to fully cooperate with any audit or investigation from federal, state, or local law enforcement agencies.
- d. If the contractor meets the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, the contractor shall maintain enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the contracted services included herein. If the contractor's business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, then the contractor shall, prior to the performance of any services as a business entity under the contract:
  - 1) Enroll and participate in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
  - 2) Provide to the Division of Purchasing and Materials Management the documentation required in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program; AND
  - 3) Submit to the Division of Purchasing and Materials Management a completed, notarized Affidavit of Work Authorization provided in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.
- e. In accordance with subsection 2 of section 285.530, RSMo, the contractor should renew their Affidavit of Work Authorization annually. A valid Affidavit of Work Authorization is necessary to award any new contracts.

1.8.11 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.

- 1.8.12 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.
- 1.8.13 Property of State – All documents, data, reports, supplies, equipment, and accomplishments prepared, furnished, or completed by the contractor pursuant to the terms of the contract shall become the property of the State of Missouri. Upon expiration, termination, or cancellation of the contract, said items shall become the property of the State of Missouri.
- 1.8.14 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. If required by the state agency, the contractor and any required contractor personnel must sign specific documents regarding confidentiality, security, or other similar documents upon request. Failure of the contractor and any required personnel to sign such documents shall be considered a breach of contract and subject to the cancellation provisions of this document.
  - c. 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 and breaches by the contractor and/or the contractor’s/provider’s subcontractors and employees.
    - 2) The contractor agrees to comply with all applicable confidentiality and information security laws, including but not limited to sections 192.067 and 192.667, RSMo, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and regulations promulgated under HIPAA, including but not limited to the Federal Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164, the “Privacy Rule”), the Security Standards for the Protection of Electronic Protected Health Information (45 CFR part 164, subpart C, the “Security Rule”), and Breach Notification for Unsecured Protected Health Information (45 CFR Parts 160 and 164, the “Breach Notification Rule”).
  - d. The contractor shall agree that the state agency utilizing the contractor’s services may be required to comply with 45 CFR 160 and 45 CFR 164, and that to achieve such compliance, the contractor must appropriately safeguard Protected Health Information (as that term is defined in 45 CFR 164.501), which the contractor receives from or creates or receives on behalf of the state agency. In such situations and to provide reasonable assurance of appropriate safeguards, the contractor shall be required to sign a Business Associate Agreement provided by the using state agency.
- 1.8.15 Force Majeure – The contractor shall not be liable for any excess costs for delayed delivery of goods or services to the State of Missouri, if the failure to perform the contract arises out of causes beyond the control of, and without the fault or negligence of the contractor. Such causes may include, however are not restricted to: acts of God, fires, floods, epidemics, quarantine restrictions, strikes, and freight embargoes. In all cases, the failure to perform must be beyond the control of, and without the fault or negligence of, either the contractor or any subcontractor(s). The contractor shall take all possible steps to recover from any such occurrences.

- 1.9 **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:
- 1.9.1 The contractor and any subcontractors must comply with all reporting requirements as published at any time during the contract period in order to allow for accountability of ARRA funds in a manner that ensures transparency and accountability in accordance with all program and ARRA requirements.
- 1.9.2 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:
- 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 (OMB Circular A-110).
  - b. Cost Principles - 2CFR 225 – State/Local Governments (OMB Circular A-87); A-122 - Not-For-Profit Organizations; A-21 - Colleges and Universities; 48 CFR 31.2 - For-Profit Organizations; 45 CFR 74 Appendix E – Hospitals.
- 1.9.3 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.
- 1.9.4 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.
- 1.9.5 The contractor shall comply with the requirements of the Single Audit Act Amendments of 1996 (P.L. 104-156) and 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 each contract year if applicable. The contractor shall return to the state agency any funds disallowed in an audit of the contract.
- 1.9.6 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.
- 1.9.7 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.
- 1.9.8 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.).

- 1.9.9 If the contractor is a sub-recipient as defined in OMB Circular A-133, Section 210, the contractor shall comply with all 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.
- 1.9.10 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 to the extent applicable to the contract. 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;
  - h. Missouri Governor’s E.O. #94-03 (excluding article II due to its repeal);
  - i. Missouri Governor’s E.O. #05-30; and
  - j. The requirements of any other nondiscrimination federal and state statutes, regulations and executive orders which may apply to the services provided via the contract.

#### **1.10 Business Associate Provisions:**

- 1.10.1 Health Insurance Portability and Accountability Act of 1996, as amended - The state agency and the contractor are both subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH) (PL-111-5) (collectively, and hereinafter, 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 and 42 U.S.C. §§ 17921 et. seq. including, but not limited to the following:
    - 1) “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.
    - 2) “Breach” shall mean the unauthorized acquisition, access, use, or disclosure of Protected Health Information which compromises the security or privacy of such information, except as provided in 42 U.S.C. § 17921. This definition shall not apply to the term “breach of contract” as used within the contract.
    - 3) “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 below.
    - 4) “Enforcement Rule” shall mean the HIPAA Administrative Simplification: Enforcement; Final Rule at 45 CFR parts 160 and 164.
    - 5) “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).

- 6) "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.
- 7) "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.
- 8) "Security Incident" shall be defined as set forth in the "Obligations of the Contractor" section of the Business Associate Provisions.
- 9) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR part 164, subpart C.
- 10) "Unsecured Protected Health Information" shall mean Protected Health Information that is not secured through the use of a technology or methodology determined in accordance with 42 U.S.C. § 17932 or as otherwise specified by the secretary of Health and Human Services.

- 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, Enforcement Rule, and other rules as later promulgated (hereinafter referenced as the regulations promulgated thereunder).

#### 1.10.2 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).

#### 1.10.3 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, and shall comply with the minimum necessary disclosure requirements set forth in 45 CFR § 164.502(b).

- b. The contractor shall use appropriate administrative, physical and technical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by the contract. Such safeguards shall include, but 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) Encryption of any portable device used to access or maintain protected health information or use of equivalent safeguard.
  - 4) Encryption of any transmission of electronic communication containing protected health information or use of equivalent safeguard.
  - 5) 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 42 USCA §17932 and 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. If requested by the state agency or the individual, the contractor shall provide an accounting of disclosures directly to the individual. The contractor shall maintain a record of any accounting made directly to an individual at the individual's request and shall provide such record to the state agency upon request.
- 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.
- k. The contractor shall report to the state agency’s Security Officer any breach immediately upon becoming aware of such incident and shall take immediate action to stop the continuation of any such incident. 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 for approval that describes plans for preventing any such future incidents.
- l. The contractor’s reports specified in the preceding paragraphs shall include the following information regarding the security incident, improper disclosure/use, or breach, (hereinafter “incident”):
  - 1) The name, address, and telephone number of each individual whose information was involved if such information is maintained by the contractor;
  - 2) The electronic address of any individual who has specified a preference of contact by electronic mail;
  - 3) A brief description of what happened, including the date(s) of the incident and the date(s) of the discovery of the incident;
  - 4) A description of the types of Protected Health Information involved in the incident (such as full name, Social Security Number, date of birth, home address, account number, or disability code) and whether the incident involved Unsecured Protected Health Information; and
  - 5) The recommended steps individuals should take to protect themselves from potential harm resulting from the incident.
- m. Notwithstanding any provisions of the Terms and Conditions attached hereto, in order to meet the requirements under HIPAA and the regulations promulgated thereunder, the contractor shall keep and retain adequate, accurate, and complete records of the documentation required under these provisions for a minimum of six (6) years as specified in 45 CFR part 164.
- n. Contractor shall not directly or indirectly receive remuneration in exchange for any protected health information without a valid authorization.
- o. If the contractor becomes aware of a pattern of activity or practice of the state agency that constitutes a material breach of contract regarding the state agency's obligations under the Business Associate Provisions of the contract, the contractor shall notify the state agency’s Security Officer of the activity or practice and work with the state agency to correct the breach of contract.
- p. The contractor shall indemnify the state agency from any liability resulting from any violation of the Privacy Rule or Security Rule or Breach arising from the conduct or omission of the contractor or its employee(s), agent(s) or subcontractor(s). The contractor shall reimburse the state agency for any and all actual and direct costs and/or losses, including those incurred under the civil penalties implemented by legal requirements, including but not limited to HIPAA as amended by the Health Information Technology for Economic and

Clinical Health Act, and including reasonable attorney's fees, which may be imposed upon the state agency under legal requirements, including but not limited to HIPAA's Administrative Simplification Rules, arising from or in connection with the contractor's negligent or wrongful actions or inactions or violations of this Agreement.

#### 1.10.4 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.

1.10.5 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.

1.10.6 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 breach of contract to the Secretary of the Department of Health and Human Services.

## PRICING PAGE

**Over the Telephone Foreign Language Interpretation Services**  
(C/S Code: 91144-Language Translation – Via Telephone)

<b>Line Item</b>	<b>Description</b>	<b>Firm, Fixed Price</b>
001	Spanish Language Interpretation Daytime Rate	\$0.57 <i>price per minute</i>
002	Spanish Language Interpretation Night, Weekend, and Holiday Rate	\$0.57 <i>price per minute</i>
003	Bosnian Language Interpretation Daytime Rate	\$0.57 <i>price per minute</i>
004	Bosnian Language Interpretation Night, Weekend, and Holiday Rate	\$0.57 <i>price per minute</i>
005	French Language Interpretation Daytime Rate	\$0.57 <i>price per minute</i>
006	French Language Interpretation Night, Weekend, and Holiday Rate	\$0.57 <i>price per minute</i>
007	Korean Language Interpretation Daytime Rate	\$0.57 <i>price per minute</i>
008	Korean Language Interpretation Night, Weekend, and Holiday Rate	\$0.57 <i>price per minute</i>
009	Vietnamese Language Interpretation Daytime Rate	\$0.57 <i>price per minute</i>
010	Vietnamese Language Interpretation Night, Weekend, and Holiday Rate	\$0.57 <i>price per minute</i>
011	Russian Language Interpretation Daytime Rate	\$0.57 <i>price per minute</i>
012	Russian Language Interpretation Night, Weekend, and Holiday Rate	\$0.57 <i>price per minute</i>

<b>Line Item</b>	<b>Description</b>	<b>Firm, Fixed Price</b>
013	All Other Languages Interpretation Daytime Rate	\$0.57 <i>price per minute</i>
014	All Other Languages Interpretation Night, Weekend, and Holiday Rate	\$0.57 <i>price per minute</i>
015	Cancellation Fee for less than twenty-four (24) hours notice for scheduled language interpretation services	\$0.00 <i>price per each</i>

**Attachment 1**

**Security Clearance Authorization**

NAME: \_\_\_\_\_ DATE: \_\_\_\_\_  
(PLEASE PRINT)

ADDRESS: \_\_\_\_\_

SOCIAL SECURITY NUMBER: \_\_\_\_\_

RACE: \_\_\_\_\_ MARITAL STATUS: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

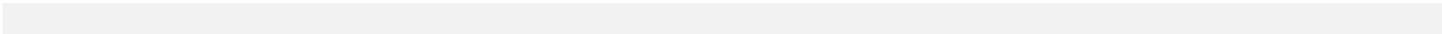
I hereby authorize and request release to the State of Missouri, \_\_\_\_\_ personnel, any and all records and information including, but not limited to, originals or copies of any records, documents, reports, and criminal history records.

I understand that the State of Missouri, \_\_\_\_\_ personnel, will conduct a background investigation before rendering a decision regarding my eligibility for employment and that this authorization is a part of that investigation.

I voluntarily agree to cooperate in such investigation and release from all liability or responsibility the State of Missouri \_\_\_\_\_ and all other persons, firms, corporations and institutions supply the above requested information.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SUPERVISOR'S SIGNATURE



*Customer Survey*

*Over the Telephone Foreign Language Interpretation*

Please complete this customer survey to advise of any comments, suggestions, and/or improvements to the over the phone foreign language interpretation contract and/or notice of award. In addition, complete the survey regarding contractor performance. This information will be used to monitor contractor performance.

**OVER THE TELEPHONE FOREIGN LANGUAGE INTERPRETATION CONTRACT**

1.	Contract meets your needs. Yes ___ No___ (If no, provide comments below.)
	Comments:
2.	Contract met the needs of your state agency. Yes ___ No (If no, provide comments below.)
	Comments:
3.	Other:

**NOTICE OF AWARD**

1.	Notice of Award meets your needs. Yes ___ No___ (If no, provide comments below.)
	Comments:
2.	Notice of Award was easy to understand and locate information. Yes ___ No ___ (If no, provide comments below)
	Comments:
3.	Other:

**Customer Survey**  
**Over the Telephone Foreign Language Services**  
*(continued)*

**CONTRACTOR INFORMATION**

Contract Number: C313089001

Contractor Name: AVAZA Language Services Corporation

1. Account established within five (5) days. Yes \_\_\_ No \_\_\_ (If no, provide comments below.)  
 Comments:

2. Telephone calls “rollover”: Yes \_\_\_ No. \_\_\_ (If no, provide comments below.)  
 Comments:

3. Connected to interpreter for correct language first attempt. Yes \_\_\_ No. (If no, provide comments below)  
 Comments:

4. Average connect time of greater than 25 seconds. Yes \_\_\_ No. \_\_\_ (If no, provide comments below.)  
 Comments:

5. Any problems with the contractor and problem resolution. Comments:

6. Contractor/Interpreter courtesy. Comments:

7. Overall experience with contractor/interpreter. Comments:

8. Problems with audibility (party/interpreters could not hear), technical issues (static on line, problems with either parties phones, and/or protocol (interpreter didn’t follow directions, client confused, “side conversation between interpreter and client, etc). Comments:

**RESPONDENT INFORMATION**

Agency Name and Address: \_\_\_\_\_

Prepared By: \_\_\_\_\_ Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email address: \_\_\_\_\_

Date problem occurred: \_\_\_\_\_

Please complete this survey and return to Megan Howser, Division of Purchasing and Materials Management, 301 W. High Street, Room 630 or [megan.howser@oa.mo.gov](mailto:megan.howser@oa.mo.gov) **and** Nancy Bochat, Division of Information Systems, Harry S Truman Building, 301 West High Street, Room 280 or [nancy.bochat@oa.mo.gov](mailto:nancy.bochat@oa.mo.gov). Thank you for taking time to complete this survey.