


Agreement for Payment of Litigation Costs To Establish Child Custody Orders

	<p>Agreement #: DSCM _____</p> <p>Missouri Department of Social Services Children's Division</p>	<p><i>Parent:</i> <i>Address:</i> <i>City, State Zip:</i></p> <p><i>Attorney:</i> <i>Firm:</i> <i>Address:</i> <i>City, State, Zip:</i> <i>E-Mail:</i></p>
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The Missouri Department of Social Services desires to enter into an agreement, with the parent and attorney (referred to as either attorney or contractor) listed above, to assist the parent in obtaining or modifying an existing custody order to facilitate the reunification of the parent's child(ren) and the termination of pending juvenile court proceedings. This agreement relates solely to the establishment of a custody order(s) for the following child(ren) listed below in Section 1.1.b. All terms, conditions, and prices contained herein shall govern the performance of this agreement.

The authorized signer of this document certifies that the contractor (named below) and each of its principals (as defined by 2 CFR Part 180) are not suspended or debarred by the federal government.

*I / We hereby agree to the requirements of this document and further agree that when this document is countersigned by an authorized official of the Missouri Department of Social Services a binding agreement shall exist between the attorney, the parent and the Department Social Services. Upon execution of this Agreement by all parties and notice to attorney of same, attorney will commence work. **The Department will not pay for any services rendered under the contract unless this agreement is signed by all four parties below.***

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***In witness thereof, the parties below hereby execute this agreement.***

\_\_\_\_\_  
 Children's Division Circuit Manager or Designee Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Printed Name

\_\_\_\_\_  
 E-Mail

\_\_\_\_\_  
 Mailing Address

\_\_\_\_\_  
 City, State, Zip

\_\_\_\_\_  
 Parent Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Attorney Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Authorized Signature for the Department of Social Services

\_\_\_\_\_  
 Date

# **1 Introduction and Background Information**

1.1. The purpose of this agreement is to assist the parent in obtaining or modifying an existing custody order to facilitate the reunification of the parent's child(ren) and the termination of pending juvenile court proceedings. This contract is to remove an impediment to final permanency for the child (ren), who have been placed in the legal custody or supervision of the Department by a Juvenile or Family Court, when an appropriate court order is an impediment to termination of juvenile court jurisdiction. The Department will accomplish this purpose by providing payments to the attorney on behalf of the parent to cover certain costs necessary to obtain a final custody order.

- a. The goal is to establish paternity or modify an existing custody order, and to provide legal services to the parent pertaining to the legal requirements accompanying those particular proceedings. The terms of this agreement set forth the services, costs, and expenses for which the Department will provide payment.
- b. For the purposes of this agreement the term child or children shall refer to the following minor child(ren). List name and date of birth for each child below. Note an attachment, if necessary.

| Name | Date of Birth | DCN |
|------|---------------|-----|
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- c. This agreement pertains only to payment, by the Department, of attorney fees and litigation costs incurred by the parent necessary to obtain a final custody order from a court of appropriate jurisdiction within the State of Missouri.
- d. The Department will not pay for any attorney fees or costs incurred by the parent in any suit, case, mediation, hearing, appeal, or portion of any of the foregoing in any other matter, issue, or proceeding.
- e. The Department will **not** pay for or reimburse any costs, fees, or expenses directly or indirectly related to any other issues, including, but not limited to: juvenile court proceedings, division of property, allocation of assets, and spousal support. Any payment of attorney fees or litigation costs incurred by the parent for these collateral issues shall be the sole responsibility of the parent.

1.2 The mission of the Department is to "Empower Missourians to live safe, healthy, and productive lives".

1.3 The Department issues contracts for these services under the authority of section 34.010, RSMo, issued to the Department by the State Office of Administration, Division of Purchasing.

1.4 The Department and the parent hereby acknowledge:

- a. The court approved permanency plan for the child(ren), who is/are currently in the legal custody or supervision of the Department, is reunification with the parent who is attempting to obtain or modify custody;
- b. The parent is ready, willing, and able to perform all of the responsibilities of a custodial parent;

c. The Juvenile or Family Court has entered an order approving the parent as the appropriate custodian of the child(ren).

1.5 This agreement shall be effective upon execution by all four parties and shall remain in effect until a final judgment has been entered, or otherwise terminated as provided in this agreement.

## **2 General Performance Requirements**

2.1 The contractor shall provide services in accordance with the provisions and requirements stated herein. Services purchased by the Department shall consist only of those services described herein.

### **2.2 Coordination**

2.2.1 The contractor shall coordinate all agreement activities with designated representatives of the Department.

2.2.2 The contractor shall attend or otherwise participate in orientation, planning and other meetings with the Department, as required.

2.2.3 In the course of providing the services required herein, the contractor shall collaborate with other agencies, resources and individuals as requested by the Department.

### **2.3 Correspondence**

2.3.1 Within five (5) days of agreement award, the contractor shall provide the Department with the name, address, Electronic mail (e-mail) address, and telephone number of the contractor's representative servicing the agreement.

2.3.2 The Department will use e-mail to transmit agreement documents and other correspondence to the contractor. Emails from the Department to the contractor that contain information confidential by law shall be encrypted to protect such from unauthorized disclosure. The contractor shall ensure the timely review and response to e-mailed documents and information.

2.3.3 The contractor shall encrypt any electronic correspondence containing information confidential by law.

2.3.4 If the contractor provides any "personal information" as defined in §105.1500, RSMo concerning an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code of 1986, as amended, the contractor understands and agrees that the contractor is voluntarily choosing to seek a contract with the Department and is providing such information for that purpose. The Department will treat such personal information in accordance with §105.1500, RSMo.

### **2.4 Contractor's Personnel**

2.4.1 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), P.L. 104-208, 110 Stat. 3009, and INA Section 274A (8 U.S.C. §1324a).

a. 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.

b. The contractor shall fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.

2.4.2 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:

- a. 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
- b. Provide to the Department 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
- c. Submit to the Department a completed, notarized Affidavit of Work Authorization provided in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.

2.5 **Subcontractors:** 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:

- a. The direct subcontractor is not knowingly in violation of subsection 1 of section 285.530, RSMo, and shall not henceforth be in such violation, and
- b. 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.

2.6 **Affidavit of Work Authorization and Documentation:**

2.6.1 Pursuant to section 285.530, RSMo, if the contractor meets the section 285.525, RSMo, definition of a "business entity" (<https://revisor.mo.gov/main/OneSection.aspx?section=285.525&bid=14999&hl=>), the contractor must affirm the contractor's 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 services requested herein. The contractor shall complete applicable portions of the exhibit titled Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization. The applicable portions of exhibit and any required documentation must be submitted prior to an award of a contract.

2.7 **Debarment Certification:**

2.7.1 The contractor certifies by signing the signature page of this original document and any amendment signature page(s) that the contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded from participation, or otherwise excluded from or ineligible for participation under federal assistance programs.

2.7.2 The contractor must complete and submit the exhibit titled Certification Regarding Debarment prior to award of a contract.

2.8 **Contractor Registration with Secretary of State:**

2.8.1 The contractor must complete and submit the exhibit titled Registration of Business Name with the Missouri Secretary of State prior to award of contract.

2.9 **HIPAA:**

- 2.9.1 The Department is subject to and must comply with applicable 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.
- 2.9.2 The contractor shall be a “Business Associate” of the Department, as defined in the Code of Federal Regulations (CFR) at 45 CFR 160.103, and shall comply with the provisions of the Business Associate Agreement attached hereto as Attachment A.

### **3 Specific Performance Requirements**

- 3.1 The attorney shall assist the Department to achieve final permanency for children who have been placed in the legal custody of the Department by obtaining a custody order providing for the safety of the child(ren).
- a. The Department will provide payments to the attorney on behalf of the parent to cover certain costs necessary to obtain a final custody order.
- 3.2 This agreement shall terminate immediately upon receipt of written notification by the Department or the parent of:
- a. A change in the permanency plan affecting the issue of custody with parent;
- b. Removal of the child from the parent;
- c. Change in circumstances of the child(ren) or parent that would indicate that the parent is not fit, suitable or able to be the legal custodian of the child(ren);
- d. Change in the recommendation of the Department regarding parent as a custodian;
- e. Failure to file the required court petition within the required time frame; or
- f. Failure to obtain a final judgment and order within a reasonable time of the commencement of the agreement, barring any dilatory delays by attorney.

### **3.3 Eligibility to Serve as Legal Custodian**

- 3.3.1 The parent shall at all times cooperate with the Department in implementing the permanency plan for reunification with the parent. This includes, but is not limited to, providing any and all information that the Department determines is necessary to ensure that the parent is a fit, suitable, and appropriate person to exercise custody of the child(ren).
- 3.3.2 If any party to this agreement becomes aware of any fact that renders the parent unable, unfit, or unwilling to exercise custody of the child(ren), or the existence of any circumstance that would warrant the termination of this agreement under paragraph 3.2 or other provisions of this agreement, that party shall immediately notify all other parties in writing.

### **3.4 Court Filing**

- 3.4.1 The parent must retain an attorney who is licensed and in good standing to practice law in the State of Missouri to file a petition or motion for custody in the appropriate circuit court or family court of the State of Missouri (“the Suit.”). The Suit must be filed in an appropriate venue with authority to establish a final order placing the child(ren) in the custody of the parent.
- 3.4.2 The attorney shall file the petition or motion within sixty (60) calendar days of the effective date of this agreement. The effective date shall be the date of execution by the last party to sign this agreement.
- a. The attorney shall submit a file-stamped copy of the petition or motion to the Department within ten (10) business days of filing. A copy of all court filed documents must be sent to the Department caseworker with a copy to [CUSTODYMODIFICATIONS@dss.mo.gov](mailto:CUSTODYMODIFICATIONS@dss.mo.gov).
- 3.4.3 The parent and attorney shall exercise due diligence in litigating the petition or motion to final judgment and shall not engage in any unnecessary delay in advancing the case.

## **4 General Contractual Requirements**

### **4.1 General:**

- 4.1.1 The contract shall consist of the original contract document and any subsequent amendments to the contract.
- 4.1.2 This contract shall be construed according to the laws of the State of Missouri. The contract governs the terms and conditions of the contracted services provided by the contractor. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, such provision(s) shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the Department.
- a. The agreement will be read and enforced as though every provision of law and clause required by law to be inserted herein were included. If any such provision is not inserted, then upon the notification of either party the agreement will be amended to make such correction.
- 4.1.3 The exclusive venue for any legal proceeding relating to or arising out of the contract shall be in the Circuit Court of Cole County, Missouri.
- 4.1.4 The contractor shall comply with all local, state and federal laws and regulations related to the performance of the contract.
- 4.1.5 The contractor certifies that the contractor and each of its principals (owners, director and others as defined by 2 CFR Part 180) are not suspended or debarred from contracting with the federal government. In the event the contractor or any of its principals become suspended or debarred during the contract period, the contractor shall immediately send written notification to the Department.
- a. Suspension or debarment of the contractor, or failure by the contractor to provide written notification of suspension or debarment to the Department, may result in immediate termination of the contract.
- 4.1.6 The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the Department.
- 4.1.7 As authorized under sections 432.230 and 432.255 RSMo, the use of electronic signatures shall be permitted for contract documents. Additionally, contract documents maintained in electronic format shall be considered the official, legal record and shall have the same force and effect, as would a paper document.

### **4.2 Amendment, Renewal and Termination:**

- 4.2.1 The contract shall not bind, nor purport to bind, the Department for any commitment in excess of the original contract period.
- 4.2.2 Any change to the contract, whether by modification or supplementation, shall be accomplished by a formal, written contract amendment. Oral agreements or agreements confirmed by e-mail or otherwise to modify the contract shall not be enforceable.
- 4.2.3 The Department shall have the right, at its sole option, to renew the contract by written notice to the contractor. In the event the Department exercises its renewal option, all terms, conditions and provisions of the original contract and any subsequent amendments shall remain in effect and shall apply during the renewal period.
- 4.2.4 Either party, with or without cause, may terminate the contract by giving 60 calendar days advance written notice to the other party. The termination shall be effective 60 calendar days from the date of notice or the date specified in the notice. The Department reserves the right to withdraw any or all of its clients before the end of the 60 calendar day period, if applicable.

- 4.2.5 At its sole discretion, the Department may give the contractor an opportunity to cure the breach. Any opportunity to cure the breach will be provided to the contractor in writing.
- 4.2.6 The Department may terminate the contract for breach of contract by providing the contractor with written notice of termination.
- a. The termination shall become effective on the date specified in the notice.
  - b. The Department shall not pay for services rendered or goods provided after the termination of the contract.
- 4.2.7 The Department shall deem any written notice to the contractor sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, electronic mail (e-mail), or otherwise delivered to an authorized employee of the contractor or the contractor's address of record.
- a. The contractor shall notify the Department within ten (10) business days of any change to the contractor's address of record or mailing address, or both.
- 4.2.8 In the event of termination all client records, documentation, data, reports, supplies, equipment and accomplishments prepared, furnished, acquired or developed by the contractor, as a direct requirement specified in the contract, shall become the property of the Department.
- a. Upon termination of the contract, the contractor shall maintain, store, transfer, dispose and provide for the authorized release of all client records, documentation, data, reports, supplies, equipment and accomplishments developed by the contractor as a requirement of the contract, as directed by the Department. The contractor shall not destroy or dispose of any such records, documentation, data, reports, supplies, equipment and accomplishments without the prior, written permission of the Department.
  - b. Upon termination of the contract, the Department shall have access to all client records pertaining to the performance of the contract. As requested by the Department, the contractor shall make available to the Department all client records and documents prepared or developed as a result of the contract.
- 4.2.9 Upon expiration, termination, or cancellation of the contract, the contractor shall assist the Department to ensure an orderly transfer of responsibility or the continuity of those services required under the terms of the contract to an individual or organization designated by the Department, if requested in writing. The contractor shall provide or perform any or all of the following responsibilities:
- a. 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 Department or to the Department's designee within seven calendar (7) days after receipt of the written request.
  - b. If requested by the Department through a formal amendment to the contract, the contractor shall continue to provide any part or all of the services. The contractor shall provide the services in accordance with the terms and conditions, requirements and specifications of the contract. The contractor shall provide the services for a period not to exceed 30 calendar days after the expiration, termination or cancellation date of the contract. The contractor shall provide the services for a price not to exceed those prices set forth in the contract,
  - c. The contractor shall discontinue providing service or accepting new assignments under the terms of the contract, on the date specified by the Department, in order to ensure the completion of such service prior to the expiration of the contract.
- 4.3 **Subcontracting:**
- 4.3.1 The Department reserves the right to approve any subcontractor utilized by the contractor for the services/products required herein. The Department, at its sole discretion, may require such approval prior to the utilization of any subcontractor. In the event the Department requires prior

approval to subcontract, the contractor shall provide notification of its intent to subcontract within the timeframe specified by the Department.

- 4.3.2 The utilization of a sub-contractor shall in no way relieve the contractor of the responsibility for providing the services required herein.
- 4.3.3 Any subcontracts for the services/products described herein shall be in writing and shall include any and all provisions and contractual obligations, including all requirements of the contract's General Contractual Requirements, that are necessary to ensure the successful fulfillment of all obligations under the contract that are performed by a subcontractor.
- 4.3.4 Any subcontracts must ensure that the Department is indemnified, saved and, held harmless from and against all claims of damage, loss, and costs (including attorney fees and litigation expenses) of any kind related to a subcontract in those matters described in the contract between the Department and the contractor.
- 4.3.5 The contractor shall be solely responsible for all legal and financial responsibilities related to the execution of a subcontract.

#### 4.4 **Conflict of Interest:**

- 4.4.1 The contractor certifies that the contractor has no other contractual or other relationships, which create any actual, or appearance of conflict of interest. During the term of the contract, neither the contractor nor any of its employees shall acquire any other contractual relationships, which would create such a conflict.
  - a. In the event the contractor becomes aware of any circumstances that may create a conflict of interest the contractor shall immediately take such actions to mitigate or eliminate the risk of harm caused by the conflict or appearance of conflict.
  - b. The contractor shall promptly, fully disclose and notify the Department of any circumstances that may arise that may create a conflict of interest or an appearance of conflict of interest. The contractor shall submit such notification to the Department in writing within seven (7) business days after the contractor discovers a conflict or appearance of a conflict.
  - c. In the event that the Department determines that a conflict or an appearance of a conflict exists, the Department may take any action that the Department determines is necessary to mitigate or eliminate the conflict or appearance of a conflict. Such actions may include, but are not limited to:
    - 1) Exercising any or all of the Department's rights and remedies under the contract, up to and including terminating the contract with or without cause;
    - 2) Directing the contractor to implement a corrective action plan within a specified time frame to mitigate, remedy or eliminate the circumstances which constitute the conflict of interest or appearance of conflict of interest; or
    - 3) Taking any other action that the Department determines is necessary and appropriate to ensure the integrity of the contractual relationship and the public interest.
- 4.4.2 In accordance with state and federal laws and regulations, state executive order or regulations, the contractor certifies that it presently has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with their performance of the contracted services. No person having such interest shall be employed or conveyed an interest, directly or indirectly, in the contract.
- 4.4.3 The contractor certifies that:
  - a. No State of Missouri employee assisted the contractor in obtaining this contract or will participate in the performance of this contract if such involvement constitutes a conflict of interest;



- b. No State of Missouri employee shall be compensated under this contract for duties performed in the course of his/her state employment; and
  - c. Before any State of Missouri employee may be involved in the performance of this contract written approval shall be obtained from the Director of the Department.
- 4.4.4 In the event the contractor is a not-for-profit agency, contractor board members must abstain from voting on any funding proposal relating to this contract, in which they have administrative control or a monetary interest. Board members who have such an interest and participate in discussion prior to a vote must disclose such interest in a meeting of the board prior to such discussion.
- 4.4.5 The contractor shall not represent itself, its employees, or its subcontractor's, as employees of the Department or the State of Missouri.
- 4.5 **Business Compliance:**
- 4.5.1 The contractor must comply with applicable laws regarding conducting business in the State of Missouri and certifies by signing this contract that it and any subcontractors are presently, and will remain, in compliance with such laws.
- 4.5.2 The contractor shall have and maintain current and in good standing, all licenses and certifications that are required by law, rule or regulation for the duration of the contract.
- a. The contractor shall notify the Department if the contractor's license(s) or certification(s), or both have or may be terminated, revoked, modified or qualified within seven (7) business days.
  - b. The contractor shall notify the Department, within seven (7) business days, if the contractor becomes aware that the contractor or its agents, officers or employees are under any investigation. Under investigation shall mean by law enforcement, governmental agency, or other entity with authority to investigate, revoke, suspend or take action against any license or certification that the contractor, its agents employees or officers, may have to conduct business.
- 4.5.3 If required by state law, the contractor shall be registered and in good standing with the State's Secretary of State and shall submit their State Certificate of Good Standing to the Department upon request.
- 4.5.4 The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- 4.6 **Personnel and Staffing:**
- 4.6.1 The contractor shall comply with the Fair Labor Standard Act, Equal Employment Opportunity Act, any other federal and state laws, rules, regulations and executive orders to the extent that these may be applicable and shall insert the foregoing provision in all subcontracts awarded.
- 4.6.2 The contract is predicated, in part, on the utilization of the specific resources, individuals and personnel qualifications as identified and described in the contractor's proposal/bid, when applicable, or in the contractual requirements stated herein. Therefore, the contractor shall only utilize personnel and individuals in the performance of this contract who meet specific qualifications required for services to be provided.
- a. No substitution of personnel shall be made by the contractor without written approval of the Department and such substitutions made pursuant to this paragraph shall be equal to or better than those originally proposed, offered, identified or required.
- 4.6.3 The contractor shall only utilize personnel including those of any subcontractor(s), who are appropriately qualified and licensed or certified, as required by state, federal or local law, statute or regulation, respective to the services to be provided through this contract, and shall provide documentation of such licensure or certification upon request.
- 4.7 **Federal Funds Requirements and Applicable Laws and Regulations:**

- 4.7.1 Non-Discrimination - 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. 45 CFR Part 92 -- Nondiscrimination on the Basis of Race, Color, National Origin, Sex, Age, or Disability in Health Programs or Activities Receiving Federal Financial Assistance and Programs or Activities Administered by the Department of Health and Human Services Under Title I of the Patient Protection and Affordable Care Act or by Entities Established Under Such Title;
  - b. 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;
  - c. Equal Pay Act of 1963 (P.L. 88 -38, as amended, 29 U.S.C. Section 206 (d));
  - d. 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;
  - e. 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;
  - f. The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) which prohibits discrimination on the basis of age;
  - g. Equal Employment Opportunity – E.O. 11246, “Equal Employment Opportunity”, as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity”;
  - h. Missouri State Regulation, 19 CSR 10-2.010, Civil Rights Requirements;
  - i. Missouri Governor’s E.O. #94-03 (excluding article II due to its repeal);
  - j. Missouri Governor’s E.O. #05-30; and
  - k. The requirements of any other nondiscrimination federal and state statutes, regulations and executive orders which may apply to the services provided via the contract.
- 4.7.2 The contractor shall comply with the requirements of the Single Audit Act Amendments of 1996 (P.L. 104-156) and 2 CFR Part 200, subpart F, including subsequent amendments or revisions.
- a. A copy of any audit report shall be sent to the Department each contract year if applicable. The contractor shall return to the Department any funds disallowed in an audit of the contract.
  - b. In the event federal funds are not utilized for contract, the contractor shall provide to the Department a copy of its annual report or statement on compliance and on internal control prepared by its external, independent public accounting firm.
  - c. If the contractor is a sub-recipient as defined in 2 CFR Part 200, subpart F 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.
- 4.7.3 Cost Principles:
- a. 2 CFR 225 – State, Local and Indian Tribal Governments;
  - b. 2 CFR 230 – Non-Profit Organizations;
  - c. 2 CFR 220 -- Educational Institutions;
  - d. 48 CFR 31.2 – For-Profit Organizations; and
  - e. 45 CFR 74 Appendix E – Hospitals.
- 4.7.4 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 funds unless the prior approval of the Department is obtained. Any statement, press release, or other document describing projects or programs funded with federal funds shall clearly state the following as provided by the Department:

- a. The percentage of the total costs of the program or project that will be financed with Federal funds;
- 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.

- 4.7.5 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 Department, when applicable, Disclosure of Lobbying Activities reporting forms.
- 4.7.6 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.
- 4.7.7 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.
- 4.7.8 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.).
- 4.7.9 The contractor shall comply with the public policy requirements as specified in the Department of Health and Human Services (HHS) Grants Policy Statement:  
(<https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf>)
- 4.7.10 The contractor shall comply with Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104), as amended.
- 4.7.11 The contractor shall provide a drug free workplace in accordance with the Drug Free Workplace Act of 1988 and all applicable regulations. The contractor shall report any conviction of the contractor's personnel under a criminal drug statute for violations occurring on the contractor's premises or off the contractor's premises while conducting official business. A report of a conviction shall be made to the Department within five (5) working days after the conviction.
- 4.7.12 Contractor Whistleblower Protections:
- a. The contractor shall comply with the provisions of 41 U.S.C. 4712 that states an employee of a contractor, subcontractor, grantee, or subgrantee may not be discharged, demoted or otherwise discriminated against as a reprisal for "whistleblowing". In addition, whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.
  - b. The contractor's employees are encouraged to report fraud, waste, and abuse. The contractor shall inform their employees in writing they are subject to federal whistleblower rights and remedies. This notification must be in the predominant native language of the workforce.
  - c. The contractor shall include this requirement in any agreement made with a subcontractor or subgrantee.

4.8 **Financial Requirements:**

- 4.8.1 The Department shall determine the availability of funding for this contract. The Department determination shall be final and without recourse by the contractor.
- 4.8.2 Funding for the contract must be appropriated by the Missouri General Assembly for each fiscal year included within the contract period. Therefore, the contract shall not be binding upon the Department for any period in which funds have not been appropriated, and the Department shall not be liable for any damages or costs, including attorney's fees, associated with termination caused by lack of appropriations.
- a. The Department reserves the right to terminate the contract, without penalty or termination costs, if such funds are not appropriated or available.
  - b. In the event funds are not appropriated or available for the contract, the Department shall provide prompt notification to the contractor.
  - c. In the event funding for the contract becomes unavailable or interrupted, the contractor shall, upon written notification from the Department, suspend work activities and incur no further costs under the contract, until such time as the Department notifies the contractor, in writing, that funding has been restored and work activities may resume.
  - d. In the event funds are not appropriated or available for the contract, the contractor shall not prohibit or limit the Department's right to pursue alternate contracts, as necessary, to conduct state governmental affairs.
  - e. The provisions of the above paragraphs shall apply to any amendment or the execution of any option to extend the contract.
- 4.8.3 The Department shall make payments due under the terms of the contract upon receipt and approval of a properly itemized invoice, as set forth herein.
- a. The contractor shall submit invoices in accordance with the requirements stated in the contract and no later than the time period specified in § 33.120 RSMo, unless more restrictive requirements are established by state or federal law or regulation.
  - b. The contractor shall not invoice federal or state tax.

4.9 **Contractor Liability:**

- 4.9.1 The contractor shall be responsible for any and all personal injury, including death, or property damage as a result of the contractor's actions, or inactions, including but not limited to, misconduct, negligence, or any future negligent act, involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract.
- a. In addition to the liability imposed upon the contractor on account of personal injury, bodily injury (including death), or property damage suffered as a result of the contractor's negligence, the contractor shall pay, indemnify, save and hold harmless the State of Missouri, including its agencies, employees, and assigns, from every expense, liability, or payment arising out of such misconduct or negligent act.
- 4.9.2 The contractor shall hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent or intentional 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.

4.10 **Insurance:**

- 4.10.1 The Department shall not be required to save and hold harmless and indemnify the contractor, its employees, agents or subcontractors 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 shall acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its

agencies, its clients, its employees and the public against any loss, damage and expense related to the contractor's performance under the contract.

- 4.10.2 The contractor shall maintain adequate automobile liability insurance for the operation of any motor vehicle used to provide any form of transportation service related to the services of this contract.
- 4.10.3 If the contract involves the performance of medical services of any type, the contractor shall maintain adequate liability insurance to cover all medical services rendered.
- 4.10.4 The contractor shall submit proof of insurance coverage to the Department as requested. Proof of insurance coverage shall include, but not be limited to, effective dates of coverage, limits of liability, insurers' names, policy numbers, company, etc. The contractor may use proof of self-insurance coverage or another alternative risk financing mechanism if such coverage is verifiable and irrevocably reliable.
- 4.11 **Recordkeeping and Reporting Requirements:**
  - 4.11.1 The contractor shall submit itemized reports, records and information at the request of the Department.
  - 4.11.2 The contractor shall maintain auditable records for all activities performed under this contract. Financial records shall conform to Generally Accepted Accounting Principles (GAAP). Such records shall include the following, as applicable:
    - a. the specific number and type of service units provided;
    - b. itemized revenues and expenditures related to the performance of the contract;
    - c. the number and type of clients served;
    - d. detailed documentation of services provided to each client, included progress notes;
    - e. any and all records necessary for performing a full audit of the contractor's performance under the contract; and
    - f. other relevant records.
  - 4.11.3 The contractor shall allow the Department or its authorized representative to inspect and examine the contractor's records which relate to the performance of the contract at any time during the period of the contract and thereafter within the period specified herein for the contractor's retention of records.
  - 4.11.4 The contractor shall promptly provide the Department with access to Department clients and records of the Department clients without limitation.
    - a. The contractor shall promptly produce all e-mails and correspondence related to Department clients, as requested by the Department.
  - 4.11.5 The contractor shall retain all records pertaining to the contract for five (5) years after the close of the contract year unless audit questions have arisen or any legal action is contemplated or filed within the five year (5) limitation and have not been resolved. All records shall be retained until all audit questions or legal actions, or both have been resolved. The contractor shall safeguard and keep such records for such additional time as directed by the Department. The obligation of the contractor to retain and produce records shall continue even after the contract expires or is otherwise terminated by either party.
  - 4.11.6 The contractor shall provide written notification to the Department when there is any change in the contractor's licensure or certification/accreditation status, official name, address of record, Executive Director, or change in ownership or control of the contractor's organization.
  - 4.11.7 Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor shall notify the Department immediately. Upon learning of any such

actions, the Department reserves the right, at its sole discretion, to either cancel or affirm the contract and hold the contractor responsible for damages, to the extent authorized by law.

4.12 **Confidentiality:**

- 4.12.1 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, to the extent required by law.
- 4.12.2 The contractor shall release no reports, documentation or material prepared pursuant to the contract to the public without the prior written consent of the Department, unless such disclosure is required by law.
- 4.12.3 If required by the Department, the contractor and any required contractor personnel shall sign specific documents regarding confidentiality, security, or other similar documents.
- 4.12.4 The contractor shall use appropriate administrative, physical and technical safeguards to prevent use or disclosure of any information confidential by law that it creates, receives, maintains, or transmits on behalf of the Department other than as provided for by the contract. Such safeguards shall include, but not be limited to:
  - a. Encryption of any portable device used to access or maintain confidential information or use of equivalent safeguard;
  - b. Encryption of any transmission of electronic communication containing confidential information or use of equivalent safeguard;
  - c. Workforce training on the appropriate uses and disclosures of confidential information pursuant to the terms of the contract;
  - d. Policies and procedures implemented by the contractor to prevent inappropriate uses and disclosures of confidential information by its workforce and subcontractors, if applicable; and
  - e. Any other safeguards necessary to prevent the inappropriate use or disclosure of confidential information.
- 4.12.5 Substance Abuse Records- 42 U.S.C. §§290dd-2 and 42 C.F.R. Part 2.1 governs the confidentiality of substance abuse records and provides for specific mechanisms to obtain such records and the information therein. Any records and information that may be maintained by the Department or contractor concerning confidential drug or alcohol treatment or for any medical, psychological, or psychiatric treatment would be released by the consent of the recipient of the treatment. Those releases do not permit the Department/contractor to further release that information without the consent of the patient unless authorized by court order entered pursuant to procedures set out at 42 C.F.R. §2.61 et seq.

4.13 **Property of State:**

- 4.13.1 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.
  - a. Upon expiration, termination, or cancellation of the contract, all such items 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 Department.
- 4.13.2 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 herein, but not required, as a specific deliverable of the contract, shall remain the property of the contractor. The contractor shall be responsible for ensuring that such tools and materials are being used in accordance with applicable intellectual property rights and copyrights.

- 4.13.3 In the event any copyrighted material is developed as a result of the contract, the Department shall have a royalty-free, nonexclusive and irrevocable right to publish, use, and authorize other to use, the work/materials for Department and State of Missouri purposes.
- 4.14 **Notification Requirements:**
- 4.14.1 The contractor shall notify the Department within one (1) business day of the death of a Department client receiving services under the contract.
- 4.14.2 The contractor shall notify the Department and make the required hotline report within one (1) business day, when there are allegations of physical abuse, sexual abuse, verbal abuse or neglect of a client.
- 4.14.3 In the event the conduct of a client is jeopardizing the safety of him/herself or others in the community, the contractor shall immediately notify the Department. If an immediate response is needed to ensure the health and safety of the client or others, the contractor shall also notify local law enforcement officials.
- 4.14.4 The contractor shall notify the Department within one (1) business day, in writing, if the contractor becomes aware of any circumstances that may render the contractor unable to perform any of its obligations under the contract.
- a. The Department shall have the right, at any time, to require the contractor to provide written assurances that it can meet its obligations under the contract and to provide satisfactory documentation to support its assurances. If the contractor is unable to provide adequate assurances that it will be able to perform its obligations under this contract, the Department shall have the right to exercise any of its remedies under this contract or under law.
- 4.15 **Miscellaneous:**
- 4.15.1 Unless otherwise specified, the contractor shall be responsible for furnishing all material, labor, facilities, equipment and supplies necessary to perform the services required.
- 4.15.2 The contractor shall only perform the specific, professional services set forth in the contract. The contractor shall provide all services in a manner consistent with generally accepted practices in the applicable professional field.
- 4.15.3 The contractor shall only utilize such testing, techniques and procedures as are necessary to accomplish the specified service(s).
- 4.15.4 The contractor shall not utilize any data, information or conclusions obtained directly or indirectly from work performed under the contract for any other purpose, including, but not limited to research, marketing or commercial purposes without the:
- a. Prior, written consent of the Department;
- b. Full, written, prior, informed consent of the individuals involved, or their legal guardian or legal custodian; and
- c. Permission of the court, when applicable, in cases where the subject is a juvenile under the jurisdiction of a court of competent jurisdiction.
- 4.15.5 The Department may require the attendance of the contractor's personnel at training activities and may require the cooperation of the contractor's personnel where the Department provides technical assistance.
- 4.15.6 The contractor shall fully cooperate with all investigations conducted by the Department, or its agents, which relate, directly or indirectly, with the performance of this contract.
- 4.15.7 The Department endorses a drug free environment and the absence of substance abuse. The contractor shall support and enforce these philosophies in their performance of the contract.

4.15.8 The contractor shall maintain appropriate documentation that it has appropriate systems and controls in place to ensure that all information software systems used in relationship to the contractual responsibilities with the Department have been acquired, operated and maintained consistently with U.S. copyright law or applicable licensing restrictions. The contractor shall make documentation of such compliance and any such license immediately available upon request by the Department.

4.16 **Contract Monitoring/Compliance**

4.16.1 The Department has the right to monitor the contract throughout the effective period of the contract to ensure compliance with contractual requirements. Additionally, the Department reserves the right to audit all records related to the contractor's performance under the contract for a period of five (5) years from the expiration date of the contract.

a. The contractor shall cooperate with any Department review of records and other documentation related to the contractor's performance under the contract.

4.16.2 In the event the Department determines the contractor to be non-compliant, or at risk for non-compliance with contractual requirements, the Department shall have the right to impose special conditions or restrictions on the contractor to bring the contractor into compliance or to mitigate the risk of non-compliance.

a. The Department shall provide written notification to the contractor of the determination of non-compliance or the risk of non-compliance, identifying any special conditions or restrictions to be imposed by the Department.

b. Special conditions or restrictions may include, but are not limited to:

- 1) Requiring the contractor to obtain additional technical assistance;
- 2) Requiring additional levels of prior approval from the Department for contract activities;
- 3) Requiring additional or more detailed financial reports and other documentation;
- 4) Additional, ongoing contract monitoring/oversight by the Department;
- 5) Requiring the submission and implementation of a corrective action plan; or
- 6) A combination of special conditions or restrictions.

4.16.3 In the event the Department requires the contractor to submit and implement a corrective action plan, the Department shall provide written notification to the contractor, identifying the specific performance or other contractual requirements that are not being met and the expected corrective resolution.

a. The contractor shall submit a written corrective action plan to the Department within the timeframes specified in the Department notification.

b. The corrective action plan must include the actions the contractor proposes to take to remedy concerns, timeframes for achieving such, the person(s) responsible for the necessary action, the improvement that is expected, a description of how progress will be measured and a description of the actions the contractor shall take to prevent the situation from recurring.

c. The Department will notify the contractor in writing if the corrective action plan is approved or if modifications are required.

1) In the event the Department requires changes to the corrective action plan, the contractor shall submit a revised corrective action plan within five (5) business days of receipt of the Department's notification that changes are required.

d. Failure of the contractor to improve performance within the timeframes required in the approved corrective action plan may result in termination of the contract and other remedies available to the Department.



## **5 Payments to the Attorney**

- 5.1 The attorney shall be paid the fees listed below for actual, authorized services provided:
- a. For uncontested cases, the Department will reimburse attorney's fees at the rate of \$100.00 per hour with a maximum total reimbursement of \$1,000.00.
    - 1) For purposes of this agreement, an "uncontested" case shall mean a case in which a judgment was entered by default or in which the final order of custody was entered pursuant to a stipulation without prior discovery, motion practice, or contested proceedings including mediation.
  - b. For contested cases, the Department will reimburse attorney's fees at the rate of \$100.00 per hour, with a maximum total reimbursement of \$5,000.00.
    - 1) For purposes of this agreement, a "contested" case shall mean a case in which the parent who was not the approved custodial resource enters an appearance and actively contests the entry of an order in favor of the parent.
  - c. The Department will not pay any fees, costs, or expenses for any appellate work by attorney in this matter.
  - d. All other fees, costs, and expenses incurred by the parent and not specifically listed herein shall be the sole and exclusive responsibility of the parent.
  - e. The fee maximums stated herein are not flat fee service offers. All billing is to reflect actual and reasonable time spent providing legal services and such services shall be stated with specificity. Bills must be itemized and block billing is prohibited. Any block billing submitted will not be approved for payment. Nonspecific or vague entries such as the following will not be paid: "attention to service on birth father of child(ren)"; "attention to post-hearing tasks"; "follow up on birth certificate for child(ren)."
- 5.2 The Department may, in its sole discretion, pay the following additional costs and litigation expenses up to a maximum total reimbursement of \$2,000.00, including but not limited to the following:
- a. The court imposed filing fee, but only if the parent is not approved to file in forma pauperis;
  - b. Legally necessary service of process fees, including fees for service of process by publication;
  - c. Court ordered guardian ad litem fees;
  - d. One (1) parenting class if ordered by the court; and
  - e. Mediation if ordered by the court.
- 5.3 Any combined costs and fees exceeding the amount paid by the Department shall be the sole and exclusive responsibility of the parent.
- 5.4 In the event the Department pays a court imposed filing fee, the Department may do so separately and at the commencement of the representation. Such payment may be made to attorney or directly to the court where the case is filed.
- 5.5 No other payments or reimbursements shall be made to the attorney other than those specified above.
- 5.6 **Invoicing:**
- 5.6.1 Attorney will submit an itemized invoice and a copy of the final court judgment to the Children's Division Circuit Manager or Circuit Manager Designee for payment no later than sixty (60) days after attorney's last date of service or date of judgement entry. The Circuit Manager or Circuit Manager Designee will submit payment for processing within five (5) business days.

- a. The invoice must clearly identify, document, and itemize specific litigation costs and attorney fees incurred for which reimbursement is requested. The attorney shall submit an itemized receipt for each item presented for payment.
  - b. Attorney fees and costs invoiced must:
    - 1) Include the name(s) of the individuals who completed the work;
    - 2) Include the date and time of service, and a detailed description of service activities;
    - 3) Be itemized in tenths (.1) of an hour units for actual services provided;
    - 4) Clearly separate and explain any attorney time billed and costs incurred between the paternity/custody issues and any other counts or issues in the litigation; and
    - 5) Identify the specific child/ren for which the work was completed.
  - c. Any fees or charges that are not clearly and specifically allocated shall not be reimbursed and will be disallowed.
- 5.6.2 All approved litigation costs shall be paid at the conclusion of the litigation unless otherwise previously agreed in writing specifically modifying this agreement. All remaining costs shall be the sole and exclusive responsibility of the parent.
- 5.6.3 The parent and attorney shall provide any additional information or supporting documentation required by the Department to verify services provided.
- 5.6.4 Attorney fees shall not include billing for multiple children included in the same case. The Department shall not reimburse for any time or expenses that are double billed. (Example: The attorney represents the parent in a custody case involving two children and a related divorce proceeding. The attorney appears in court for an hour on the custody hearing and spends two (2) hours litigating a property division issue. The Department will pay the attorney for one (1) hour at the rate of \$100.00, not one (1) hour for each child at the rate of \$200.00, and not for the two (2) hours spent litigating the property division issue).
- 5.6.5 The Department shall not be obligated to pay any invoice submitted after the 60 day period as set forth in paragraph 5.6.1 above.
- 5.6.6 Any and all attorney fees and costs incurred by the parent in excess of the maximum amounts specified herein shall be the sole and exclusive responsibility of the parent(s).
- 5.6.7 In the event that circumstances change, and the parent is no longer able, fit or appropriate to serve as the custodian of the child(ren), attorney will be compensated for costs and fees for services provided prior to such change in circumstances. For example: If a new petition or motion to modify is filed in the juvenile court asking for the removal of the child(ren).
- 5.6.8 Attorney must comply with the invoicing requirements stated herein for the Department to pay for attorney's fees and litigation costs incurred under this agreement.
- 5.6.9 The Department will pay parent's attorney for reasonable attorney fees and costs herein upon receipt and approval of an itemized invoice, subject to and not to exceed the limitations set forth in this agreement.
- 5.6.10 Attorney shall prepare itemized invoices and certify that the fees and litigation costs included in the invoice were reasonable, necessary, and incurred exclusively for the purposes of custody as set forth above. Such invoices and certification must be signed by the attorney.
- 5.6.11 Each invoice shall have a unique identifier as an invoice number. Invoice numbers must not be duplicated in the same fiscal year.
- 5.6.12 Nothing in this agreement is intended to or shall be construed to obligate the Department to pay attorney fees or other costs for any other party to the proceeding or any other person.

- a. Nothing in this agreement is intended to or shall confer any benefits, rights, or remedies upon any person who is not a party to this agreement. This agreement is not transferrable.
  - b. Nothing in this agreement shall be construed to obligate the Department to pay guardian ad litem fees and costs except as expressly stated herein.
- 5.6.13 The parent shall pay, indemnify, and hold the Department harmless from any and all other attorney's fees, costs, damages, sanctions, or litigation costs that the parent may incur in any case filed under or based on this agreement.
- 5.6.14 In the event of non-compliance with contractual or performance requirements, the Department, at its sole discretion, may:
- a. Require repayment for all or part of the goods or services in non-compliance;
  - b. Withhold payments pending correction of the compliance deficiency by the contractor; or
  - c. Withhold further payments for goods or services.
- 5.6.15 The Department reserves the right to make payments to the attorney through electronic funds transfer (EFT). Therefore, prior to any payments becoming due under the agreement, the attorney should return a completed Application for Vendor Direct Deposit. The application can be downloaded from the internet at: <http://dss.mo.gov/cd/info/forms> (Application for Vendor Direct Deposit, CD-122 form for all EFT applications).

## **6 Agreement Submission**

### **6.1 Submission Requirements**

- 6.1.1 Affidavit of Work Authorization and Documentation: Pursuant to section 285.530, RSMo, if the attorney meets the section 285.525, RSMo, definition of a "business entity" (<http://www.moga.mo.gov/mostatutes/ChaptersIndex/chaptIndex285.html>), the attorney must affirm the attorney's 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 services requested herein. The attorney shall complete applicable portions of Exhibit 1, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization. The applicable portions of Exhibit 1 must be submitted prior to an award of agreement.
- 6.1.2 The attorney certifies by signing the signature page of this original document and any amendment signature page(s) that the attorney and any subcontractors are not presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded from participation, or otherwise excluded from or ineligible for participation under federal assistance programs. The attorney must complete and submit Exhibit 2, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions, prior to award of agreement.
- 6.1.3 The attorney must indicate their charter number and company name with the Missouri Secretary of State and provide proof of good standing. If exempt, attorney must identify the specific section supporting the exemption. The attorney must complete Exhibit 3, Registration of Business Name (if applicable) with the Missouri Secretary of State, prior to award of agreement.
- 6.1.4 Prior to an attorney receiving an agreement award, the attorney must have a Department Vendor Number (DVN) assigned by the Department. The attorney must submit a completed and signed Internal Revenue Service (IRS) "Request for Taxpayer Identification Number & Certification" W-9 form. The W-9 form can be found on the Internet at the IRS website which is <http://www.irs.gov/>. If the attorney is submitting their agreement using their Social Security Number (SSN) as their Taxpayer Identification Number (TIN), the attorney will also need to submit a legible photocopy of their Social Security card or other documentation from the Social Security Administration verifying the SSN number. If the attorney is using a Federal Employment Identification Number (FEIN) as their TIN the attorney should also submit proof of their TIN along with the W-9, in the form of pre-printed documentation from the IRS, which may include an example of **one (1)** of the following

- Copy of form 941 Employer’s Quarterly Federal Tax Return with barcode, or
- Copy of form 8109 Federal Tax Deposit Coupon, or
- Copy of letter 147C (This letter may be obtained from the IRS).

6.1.5 Vendor No Tax Due Certificate – This certificate is required by all contractors as verification that the contractor is either registered to collect sales or use tax in Missouri, or that the contractor is not making retail sales of tangible personal property or providing taxable services in Missouri. The “Vendor No Tax Due” certificate may be obtained by completing and submitting the “Request for Tax Clearance” form located at <http://dor.mo.gov/forms/943.pdf>. Additional information regarding this certificate is available on the Department of Revenue’s website at <http://dor.mo.gov/business/sales>.

Department of Revenue, Taxation Division Contact Information for technical assistance:

Website: <http://dor.mo.gov/business/sales>  
 Phone: (573) 751-9268  
 Email: [taxclearance@dor.mo.gov](mailto:taxclearance@dor.mo.gov)

The attorney should utilize the following table to ensure all necessary documentation is submitted with their agreement:

|                                                                                                                                                                                                                                                                                                   |                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| 1. Completed signature page of the contract.                                                                                                                                                                                                                                                      | <input type="checkbox"/> |
| 2. Completed applicable section(s) of Exhibit 1, E-Verify form, pursuant to paragraph 6.1.1.                                                                                                                                                                                                      | <input type="checkbox"/> |
| 3. Completed Exhibit 2, Debarment form, pursuant to paragraph 6.1.2.                                                                                                                                                                                                                              | <input type="checkbox"/> |
| 4. Completed Exhibit 3, Secretary of State Registration, pursuant to paragraph 6.1.3.                                                                                                                                                                                                             | <input type="checkbox"/> |
| 5. Completed Internal Revenue Service (IRS) "Request for Taxpayer Identification Number & Certification" W-9 form. Also, must include a legible photocopy of their Social Security card or pre-printed documentation from the IRS if using a FEIN for the agreement, pursuant to paragraph 6.1.4. | <input type="checkbox"/> |
| 6. Vendor No Tax Due Certificate issued by the Missouri Department of Revenue, pursuant to paragraph 6.1.5.                                                                                                                                                                                       | <input type="checkbox"/> |

# Attachment A – Business Associate Agreement

(rev 08-29-13)

*(Health Insurance Portability and Accountability Act of 1996, as amended)*

1. Health Insurance Portability and Accountability Act of 1996, as amended - The Department 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 Department. Therefore, the term, "contractor" as used in this section shall mean "Business Associate."
2. The contractor agrees 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:
  - a. "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. "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.
  - c. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the contractor.
  - d. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the Department.
  - e. "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.
  - f. "Enforcement Rule" shall mean the HIPAA Administrative Simplification: Enforcement; Final Rule at 45 CFR Parts 160 and 164.
  - g. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
  - h. "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).
  - i. "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.
  - j. "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 (Department) in its role as employer.
  - k. "Security Incident" shall be defined as set forth in the "Obligations of the Contractor" section of the Business Associate Provisions.
  - l. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C.
  - m. "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.
3. 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.
4. The contractor must appropriately safeguard Protected Health Information which the contractor receives from or creates or receives on behalf of the Department. To provide reasonable assurance of appropriate safeguards, the contractor shall comply with the business associate provisions stated herein, as well as the 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) and all regulations promulgated pursuant to authority granted therein.

5. The Department 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). Any ambiguity in the contract shall be interpreted to permit compliance with the HIPAA Rules.

6. **Permitted Uses and Disclosures of Protected Health Information by the Contractor**

6.1 The contractor may not use or disclose Protected Health Information in any manner that would violate Subpart E of 45 CFR Part 164 if done by the Department, except for the specific uses and disclosures in the contract.

6.2 The contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Department as specified in the contract, provided that such use or disclosure would not violate HIPAA and the regulations promulgated thereunder.

6.3 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 Department by no later than ten (10) calendar days after the contractor becomes aware of the disclosure of the Protected Health Information.

6.4 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.

6.5 If the disclosure is required by law, the contractor may disclose Protected Health Information to carry out the legal responsibilities of the contractor.

6.6 If applicable, the contractor may use Protected Health Information to provide Data Aggregation services to the Department as permitted by 45 CFR 164.504(e)(2)(i)(B).

6.7 The contractor may not use Protected Health Information to de-identify or re-identify the information in accordance with 45 CFR 164.514(a)-(c) without specific written permission from the Department to do so.

6.8 The contractor agrees to make uses and disclosures and requests for Protected Health Information consistent with the Department's minimum necessary policies and procedures.

7. **Obligations and Activities of the Contractor**

7.1 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).

7.2 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:

- a. Workforce training on the appropriate uses and disclosures of Protected Health Information pursuant to the terms of the contract;
- b. Policies and procedures implemented by the contractor to prevent inappropriate uses and disclosures of Protected Health Information by its workforce and subcontractors, if applicable;
- c. Encryption of any portable device used to access or maintain Protected Health Information or use of equivalent safeguard;
- d. Encryption of any transmission of electronic communication containing Protected Health Information or use of equivalent safeguard; and
- e. Any other safeguards necessary to prevent the inappropriate use or disclosure of Protected Health Information.

7.3 With respect to Electronic Protected Health Information, the contractor shall use appropriate 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 Department and comply with Subpart C of 45 CFR Part 164, to prevent use or disclosure of Protected Health Information other than as provided for by the contract.

7.4 In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), the contractor shall require that any agent or subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of the contractor agrees to the same restrictions, conditions, and requirements that apply to the contractor with respect to such information.

7.5 By no later than ten (10) calendar days after receipt of a written request from the Department, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the Department, 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 Department available to the Department and/or to the Secretary of the

Department of Health and Human Services or designee for purposes of determining compliance with the HIPAA Rules and the contract.

- 7.6 The contractor shall document any disclosures and information related to such disclosures of Protected Health Information as would be required for the Department 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 Department, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the Department, the contractor shall provide an accounting of disclosures of Protected Health Information regarding an individual to the Department. If requested by the Department 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 Department upon request.
- 7.7 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 Department 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 Department, provide the Department access to the Protected Health Information in an individual's designated record set. However, if requested by the Department, the contractor shall provide access to the Protected Health Information in a designated record set directly to the individual for whom such information relates.
- 7.8 At the direction of the Department, the contractor shall promptly make any amendment(s) to Protected Health Information in a Designated Record Set pursuant to 45 CFR 164.526.
- 7.9 The contractor shall report to the Department'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 Department'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.
- 7.10 The contractor shall report to the Department'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 Department'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.
- 7.11 The contractor shall report to the Department'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 Department's Security Officer with a description of the breach, the information compromised by the breach, and 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.
- 7.12 The contractor's reports required in the preceding paragraphs shall include the following information regarding the security incident, improper disclosure/use, or breach, (hereinafter "incident"):
- a. The name, address, and telephone number of each individual whose information was involved if such information is maintained by the contractor;
  - b. The electronic address of any individual who has specified a preference of contact by electronic mail;
  - c. A brief description of what happened, including the date(s) of the incident and the date(s) of the discovery of the incident;
  - d. 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
  - e. The recommended steps individuals should take to protect themselves from potential harm resulting from the incident.
- 7.13 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.
- 7.14 The contractor shall not directly or indirectly receive remuneration in exchange for any Protected Health Information

without a valid authorization.

- 7.15 If the contractor becomes aware of a pattern of activity or practice of the Department that constitutes a material breach of contract regarding the Department's obligations under the Business Associate Provisions of the contract, the contractor shall notify the Department's Security Officer of the activity or practice and work with the Department to correct the breach of contract.
- 7.16 The contractor shall indemnify the Department 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 Department 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 Department 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.

8. **Obligations of the Department**

- 8.1 The Department 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 Department's notice of privacy practices in accordance with 45 CFR 164.520.
- 8.2 The Department shall notify the contractor of any changes in, or revocation of, authorization by an Individual to use or disclose Protected Health Information.
- 8.3 The Department shall notify the contractor of any restriction to the use or disclosure of Protected Health Information that the Department has agreed to in accordance with 45 CFR 164.522.
- 8.4 The Department 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.
9. **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 Department, either return to the Department or destroy all Protected Health Information received by the contractor from the Department, or created or received by the contractor on behalf of the Department, 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 Department 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 Department and obtain instructions from the Department for either the return or destruction of the Protected Health Information.
10. **Breach of Contract:** In the event the contractor is in breach of contract with regard to the business associate provisions included herein, the contractor agrees that in addition to the requirements of the contract related to cancellation of contract, if the Department determines that cancellation of the contract is not feasible, the State of Missouri may elect not to cancel the contract, but the Department shall report the breach of contract to the Secretary of the Department of Health and Human Services.



## Exhibit # 1

### Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization

#### Business Entity Certification:

The contractor must certify their current business status by completing either Box A or Box B or Box C on this Exhibit.

**BOX A:** To be completed by a non-business entity as defined below.

**BOX B:** To be completed by a business entity who has not yet completed and submitted documentation pertaining to the federal work authorization program as described at <http://www.uscis.gov/e-verify>.

**BOX C:** To be completed by a business entity who has current work authorization documentation on file with a Missouri state agency including Division of Purchasing and Materials Management.

**Business entity**, as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, is any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood. The term "**business entity**" shall include but not be limited to self-employed individuals, partnerships, corporations, contractors, and subcontractors. The term "**business entity**" shall include any business entity that possesses a business permit, license, or tax certificate issued by the state, any business entity that is exempt by law from obtaining such a business permit, and any business entity that is operating unlawfully without such a business permit. The term "**business entity**" shall not include a self-employed individual with no employees or entities utilizing the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

Note: Regarding governmental entities, business entity includes Missouri schools, Missouri universities (other than stated in Box C), out of state agencies, out of state schools, out of state universities, and political subdivisions. A business entity does not include Missouri state agencies and federal government entities.

#### **BOX A – Currently Not a Business Entity**

I certify that \_\_\_\_\_ (Company/Individual Name) **DOES NOT CURRENTLY MEET** the definition of a business entity, as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, as stated above, because: (check the applicable business status that applies below)

- I am a self-employed individual with no employees; **OR**
- The company that I represent employs the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

I certify that I am not an alien unlawfully present in the United States and if \_\_\_\_\_ (Company/Individual Name) is awarded a contract for the services requested herein under \_\_\_\_\_ (Contract Number) and if the 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, prior to the performance of any services as a business entity, \_\_\_\_\_ (Company/Individual Name) agrees to complete Box B, comply with the requirements stated in Box B and provide the Department of Social Services with all documentation required in Box B of this exhibit.

\_\_\_\_\_  
Authorized Representative's Name  
(Please Print)

\_\_\_\_\_  
*Authorized Representative's  
Signature*

\_\_\_\_\_  
Company Name (if applicable)

\_\_\_\_\_  
Date

**Exhibit # 1:** (continued)

**(Complete the following if you DO NOT have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box B, do not complete Box C.)**

**Box B – Current Business Entity Status**

I certify that \_\_\_\_\_ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530.

\_\_\_\_\_  
Authorized Business Entity Representative's  
Name (Please Print)

\_\_\_\_\_  
*Authorized Business Entity  
Representative's Signature*

\_\_\_\_\_  
Business Entity Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
E-Mail Address

As a business entity, the contractor must perform/provide each of the following. The contractor should check each to verify completion/submission of all of the following:

- Enroll and participate in the E-Verify federal work authorization program (Website: <http://www.uscis.gov/e-verify>; Phone: 888-464-4218; Email: [e-verify@dhs.gov](mailto:e-verify@dhs.gov)) with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
- Provide documentation affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program. Documentation shall include EITHER the E-Verify Employment Eligibility Verification page listing the contractor's name and company ID OR a page from the E-Verify Memorandum of Understanding (MOU) listing the contractor's name and the MOU signature page completed and signed, at minimum, by the contractor and the Department of Homeland Security – Verification Division. If the signature page of the MOU lists the contractor's name and company ID, then no additional pages of the MOU must be submitted; AND
- Submit a completed, notarized Affidavit of Work Authorization provided on the next page of this Exhibit.

**Exhibit # 1:** (continued)

**Affidavit of Work Authorization**

The contractor who meets the section 285.525, RSMo, definition of a business entity must complete and return the following Affidavit of Work Authorization.

Comes now \_\_\_\_\_ (Name of Business Entity Authorized Representative)  
as \_\_\_\_\_ (Position/Title) first being duly sworn on my oath, affirm  
\_\_\_\_\_ (Business Entity Name) is enrolled and will continue to participate  
in the E-Verify federal work authorization program with respect to employees hired after enrollment in the  
program who are proposed to work in connection with the services related to contract(s) with the State of  
Missouri for the duration of the contract(s), if awarded in accordance with subsection 2 of section 285.530,  
RSMo. I also affirm that \_\_\_\_\_ (Business Entity Name) does not and will not  
knowingly employ a person who is an unauthorized alien in connection with the contracted services  
provided under the contract(s) for the duration of the contract(s), if awarded.

***In Affirmation thereof, the facts stated above are true and correct. (The undersigned understands that false statements made in this filing are subject to the penalties provided under section 575.040, RSMo.)***

|                                              |                            |
|----------------------------------------------|----------------------------|
| _____                                        | _____                      |
| <i>Authorized Representative's Signature</i> | Printed Name               |
| _____                                        | _____                      |
| Title                                        | Date                       |
| _____                                        | _____                      |
| E-Mail Address                               | E-Verify Company ID Number |

Subscribed and sworn to before me this \_\_\_\_\_ of \_\_\_\_\_. I am commissioned as a notary  
(DAY) (MONTH, YEAR)  
public commissioned as a notary public within the County of \_\_\_\_\_, State of \_\_\_\_\_,  
(NAME OF COUNTY) (NAME OF STATE)  
and my commission expires on \_\_\_\_\_.  
(DATE)

|                            |       |
|----------------------------|-------|
| _____                      | _____ |
| <i>Signature of Notary</i> | Date  |

**Exhibit # 1:** (continued)

**(Complete the following if you have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box C, do not complete Box B.)**

**BOX C – Affidavit on File - Current Business Entity Status**

I certify that \_\_\_\_\_ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, and have enrolled and currently participates 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 related to contract(s) with the State of Missouri. We have previously provided documentation to a Missouri state agency or public university that affirms enrollment and participation in the E-Verify federal work authorization program. The documentation that was previously provided included the following.

- ✓ The E-Verify Employment Eligibility Verification page OR a page from the E-Verify Memorandum of Understanding (MOU) listing the contractor’s name and the MOU signature page completed and signed by the contractor and the Department of Homeland Security – Verification Division
- ✓ A current, notarized Affidavit of Work Authorization (must be completed, signed, and notarized within the past twelve months).

Name of **Missouri State Agency** or **Public University\*** to Which Previous E-Verify Documentation Submitted:

\_\_\_\_\_

\*Public University includes the following five schools under chapter 34, RSMo: Harris-Stowe State University – St. Louis; Missouri Southern State University – Joplin; Missouri Western State University – St. Joseph; Northwest Missouri State University – Maryville; Southeast Missouri State University – Cape Girardeau.

**Date** of Previous E-Verify Documentation Submission: \_\_\_\_\_

Previous **Bid/Contract Number** for Which Previous E-Verify Documentation Submitted: \_\_\_\_\_  
(if known)

\_\_\_\_\_  
Authorized Business Entity Representative’s  
Name (Please Print)

\_\_\_\_\_  
*Authorized Business Entity  
Representative’s Signature*

\_\_\_\_\_  
E-Verify MOU Company ID Number

\_\_\_\_\_  
E-Mail Address

\_\_\_\_\_  
Business Entity Name

\_\_\_\_\_  
Date

**FOR STATE USE ONLY**

Documentation Verification Completed By:

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Date

## Exhibit # 2:

### Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

This certification is required by 2 CFR Part 180.

***(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS FOR CERTIFICATION)***

- (1) The prospective recipient of Federal assistance funds certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

|                                                   |                                            |
|---------------------------------------------------|--------------------------------------------|
| _____<br>Company Name                             | _____<br>Unique Entity ID (UEI) #          |
| _____<br>Authorized Representative's Printed Name | _____<br>Authorized Representative's Title |
| _____<br>Authorized Representative's Signature    | _____<br>Date                              |

#### Instructions for Certification

1. By signing and submitting this proposal, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing 2 CFR Part 180. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective recipient of Federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DOL.
6. The prospective recipient of Federal assistance funds further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to check the List of Parties Excluded from Procurement or Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.

**FOR STATE USE ONLY Documentation Verification Completed By:**

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Date

**EXHIBIT # 3:**

**Registration of Business Name (if applicable) with the Missouri Secretary of State:**

The vendor should indicate the vendor’s charter number and company name with the Missouri Secretary of State. Additionally, the vendor should provide proof of the vendor’s good standing status with the Missouri Secretary of State. If the vendor is exempt from registering with the Missouri Secretary of State pursuant to section 351.572, RSMo, identify the specific section of 351.572 RSMo, which supports the exemption.

If you are doing business as a Sole Proprietorship (must operate business using the owner’s true name), you are exempt from registering with the Secretary of State. However, if you are doing business using any other name, you must register with the Secretary of State. *Example: John Smith (owner’s true name) operates a business using the name John Smith LP Gas, you must register the business with the Secretary of State.*

| <b><i>Charter Number (if applicable)</i></b>                                                                                           | <b><i>Company Name</i></b> |
|----------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| If exempt from registering with the Missouri Secretary of State indicate the specific exemption which applies to your business entity. |                            |

If your business entity is not registered, you may go to the link provided below to register:

[www.sos.mo.gov/fileonline](http://www.sos.mo.gov/fileonline)

If you believe your business entity is exempt from registering with the Secretary of State due to one of the specific exemptions contained in the Missouri Revised Statutes, please indicate in your response the specific exemption that applies to your business entity.

Below are the exemption sections of the Missouri Revised Statutes for the most popular business entity types:

1. Sole Proprietorship using the owner’s true name.
2. General Business - section 351.572, RSMo, located at:  
<http://revisor.mo.gov/main/OneSection.aspx?section=351.572&bid=18804&hl=>
3. Limited Liability Company - section 347.163.5, RSMo, located at:  
<http://revisor.mo.gov/main/OneSection.aspx?section=347.163&bid=18500&hl=>
4. Limited Partnership - section 359.551.5, RSMo, located at:  
<http://revisor.mo.gov/main/OneSection.aspx?section=359.551&bid=19476&hl=>
5. Non-Profit - section 355.751.2, RSMo, located at:  
<http://revisor.mo.gov/main/OneSection.aspx?section=355.751&bid=19289&hl=>
6. Professional Corporation - section 356.231, RSMo, located at:  
<http://revisor.mo.gov/main/OneSection.aspx?section=356.231&bid=19340&hl=>

Note: Limited Liability Partnerships have no exemptions.

For questions regarding registration, contact the Missouri Secretary of State at:

[corporations@sos.mo.gov](mailto:corporations@sos.mo.gov) or (573) 751-4153 (toll free 866-223-6535)