

**GRANT AGREEMENT BETWEEN THE PENNSYLVANIA DEPARTMENT OF HEALTH
AND CITY OF PHILADELPHIA**

REQUIREMENTS

GRANT AGREEMENT TERM

This Grant Agreement shall be effective from July 1, 2005 through June 30, 2010, subject to its other provisions, and the availability of state and Federal funds, unless terminated earlier by either party according to the termination provisions of this Grant Agreement.

COMPLIANCE WITH OUTSIDE/INCORPORATED DOCUMENTS

The Grantee shall comply with the requirements, policies and procedures contained in the most current version, which version shall be updated from time to time during the course of this agreement, of the State Plan for the Control, Prevention, Intervention, Treatment, Rehabilitation, Research, Education, and Training, Aspects of Drug and Alcohol Abuse and Dependence Problems (hereinafter referred to as "State Plan"), BDAP's Prevention Manual, BDAP's Treatment Manual, BDAP's Fiscal Manual, the Department's Personnel Agreement, BDAP's Report Schedule and any subsequent revisions to any of the aforementioned documents thereto. All documents noted in this paragraph are incorporated herein by reference. Each provision enumerated herein or incorporated by reference hereto shall be deemed to be material and any breach thereof may be considered a material breach of this Grant Agreement. The Grantee acknowledges receipt of the State Plan, BDAP's Prevention Manual, Treatment Manual and Fiscal Manual, the Personnel Agreement and BDAP's Report Schedule.

FEDERAL LOBBYING CERTIFICATION AND DISCLOSURE

The Grantee certifies, to the best of Grantee's knowledge and belief, that:

No federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Grantee shall

complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

The Grantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.

Copies of the Certification and Lobbying Disclosure Forms are attached to this document as Appendix F. Persons or entities, at whatever tier, receiving more than \$100,000 in federal funds hereunder, shall promptly file the certification and any necessary lobbying disclosure forms with the tier providing the funding. That tier shall retain the certification but promptly file any lobbying disclosure forms with the next higher tier until such lobbying disclosure forms reach the federal funding source agency. There is an obligation to file an amended lobbying disclosure form and pass it from tier to tier whenever there is a material change to the original lobbying disclosure form information. See 55 Federal Register 6736-6756 (February 26, 1990). Further general information may be obtained by telephoning the federal Office of Management and Budget at (202) 395-3254.

CONFIDENTIALITY PROVISIONS

The Grantee agrees that persons diagnosed, counseled, treated and rehabilitated, including all persons formerly diagnosed, counseled, treated and rehabilitated for drug and alcohol abuse and dependence, shall be protected from disclosure of their names, identities, patient records and the information contained therein except as disclosure is permitted by state and federal statute and regulation. To assure confidentiality of client information, the Grantee shall make adequate provision for system security and protection of individual privacy. The Grantee, treatment providers, and others subject to the confidentiality requirements of the Pennsylvania Drug and Alcohol Abuse Control Act (71 P.S. Section 1690.108), the Public Health Service Act (42 U.S.C. §290dd-2), Federal Confidentiality Regulations (42 CFR Part 2), State Confidentiality Regulations (4 Pa. Code §§255.5(b) and 257.4, the Confidentiality of HIV-Related Information Act 1990-148, the Healthcare Facility Act (35 P.S. Section 7601 et seq.), and the Health Insurance Portability and Accountability Act, shall comply with such requirements, as applicable.

SUBCONTRACTS

The Grantee shall adhere to the requirements for Subcontracts as described in the "Provider Funding and Contracting Guidelines" section of BDAP's Fiscal Manual.

FIXED ASSETS

The Grantee shall adhere to the requirements for fixed assets as described in BDAP's Fiscal Manual. None of the language in BDAP's Fiscal Manual with regard to fixed assets shall apply to subcontractors that provide their service to the Grantee on a fee-for-service (unit cost) basis.

EMPLOYER PAYROLL WITHHOLDING

The Grantee and its subcontractors must ensure that they meet their obligations to pay the employer's share of, and to withhold and remit from employees' salaries, the correct amount of income taxes, F.I.C.A. taxes, unemployment and worker's compensation taxes or premiums, and any other obligations to the appropriate federal, state and local governmental agencies.

COPYRIGHT

Data, as defined in Paragraph 20A of Appendix D, may be copyrighted by the Grantee only upon prior written approval of the Department. Where the Grantee receives such approval, the Department retains a royalty-free, non-exclusive and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so, all materials originating in the performance of this Grant Agreement, whether funded in whole or in part by the Department.

HUMAN EXPERIMENTATION

The Grantee agrees that all experimentation with human subjects shall be prohibited unless the Grantee certifies that the prior written approval of its Institutional Review Board (IRB) is obtained or is not required, subject to all applicable laws, including but not limited to 42 U.S.C. Section 3515 (b) (relating to prohibitions on funding certain experiments involving human participants) and the regulations thereunder. In addition, such experimentation or research projects involving human subjects must be submitted to the Department of Health's IRB on form number HD1103F. Further, the written, voluntary, informed consent of each subject must be obtained. If the subject is a minor, or incompetent, the written, voluntary, informed consent of his or her legal guardian shall be required. The Grantee shall inform each potential subject prior to his or her consent that refusal shall not result in the loss of any benefits to which the subject is otherwise entitled from the federal government, the Commonwealth, the Grantee, any subgrantee, or any third party insurer.

INTEREST OF THE GRANTEE

1. The Grantee shall comply with the requirements of Paragraphs 24, 37A(4)(a), 37A(4)(b) and 37G of Appendix D, and Chapter 2.7 of the State Plan, with regard to adverse interests. For purposes of this Grant Agreement, having an adverse interest means being employed by or sitting in an advisory position to; having a contract or agreement to provide services or materials, supplies, equipment, land or other personal or real property to; or having more than five percent ownership interest including ownership in the aggregate by such person

and any immediate family member in a company, corporation or organization with whom the Grantee contracts. For purposes of this Paragraph, a member of the immediate family means a parent, sibling, spouse, child, grandparent, grandchild or in-laws.

2. The Grantee shall not make any contract for reimbursable services (other than an employment contract addressing duties to be performed as a member of the governing body or Board, or Advisory Board, or an employee of a Grantee) with:
 - (A) Elected or appointed county officials or any member of their immediate families.
 - (B) Members of the governing body or Board of Directors, or a member of the Advisory Board of a Grantee, or a member of their immediate families.
 - (C) Employees of the Grantee or any member of their immediate families.
 - (D) A company, corporation, or any organization that operates either for-profit or not-for-profit, in which any person listed in subparagraphs B (1) through B (3) has an adverse interest, as defined in subparagraph A above.

COVENANT AGAINST REFERRAL FEES OR FEE-SPLITTING

The Grantee and subcontractors agree that no employee, board member, or representative of the Grantee or subcontractor, either personally or through an agent, shall solicit the referral of clients to any facility in a manner that offers or implies an offer of rebate to persons referring clients or other fee-splitting inducements. No person or entity involved in the referral of clients may receive payment or other inducement by a facility or its representatives.

INDEPENDENT CAPACITY OF THE GRANTEE

The parties hereto agree that the Grantee, and any agents and employees of the Grantee, in the performance of this Grant Agreement, shall act in an independent capacity and not as officers, employees or agents of the Commonwealth.

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

By signing this Agreement, the Grantee, in accordance with 45 CFR Part 76, certifies that it shall provide a drug-free workplace by:

1. Establishing a drug-free awareness program to inform employees about:
 - (A) The dangers of drug abuse in the workplace; and
 - (B) The Grantee's policy of maintaining a drug-free workplace; and

- (C) Any available drug counseling, rehabilitation, and employee assistance programs; and;
 - (D) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
2. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that shall be taken against employees for violation of such prohibition.
 3. Including the statement published pursuant to (2) above, a requirement that each employee, as a condition of employment, shall:
 - (A) Abide by the terms of the statement; and
 - (B) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
 4. Notifying the Department within ten (10) days after receiving notice under subparagraph C(2), above, from an employee or otherwise receiving actual notice of such conviction.
 5. Taking one of the following actions, within thirty (30) days of receiving notice under subparagraph C(2), above, with respect to any employee who is so convicted:
 - (A) Taking appropriate personnel action against such an employee, up to and including termination;
 - Or
 - (B) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency.

PRECEDENCE CLAUSE

The provisions of this Grant Agreement shall take precedence over all documents incorporated by reference into this Grant Agreement, to the extent permitted by law.

WHOLE GRANT AGREEMENT

This Grant Agreement with attached Appendices and items incorporated by reference contains all the terms, provisions, and conditions of this Grant Agreement. All the provisions thereof are intended by the parties to be whole and entire, and if any provision or any part hereof is

determined to be void, only that part shall be nullified and such, shall not affect the remainder of the Grant Agreement.

STATE HEALTH IMPROVEMENT PLAN INITIATIVE

The Grantee shall collaborate with the Department to provide drug and alcohol prevention and treatment related service(s) to communities in the Grantee's region consistent with the State Health Improvement Plan. These services shall be provided in coordination and cooperation with the local Community Health Improvement Partnership(s) in the Grantee's service area. A complete listing of Community Health Improvement Partnerships may be found on the internet at <http://www.haponline.org/ihc/resources/directory/index.asp> or Grantee may contact the Department of Health, Bureau of Health Planning at (717) 772-5298.

PERSONAL COMPUTER HARDWARE, SOFTWARE, AND PERIPHERALS REQUIREMENTS

In accordance with the Department's Bureau of Information Technology standards:

1. The Grantee shall adhere to the minimum specifications for all personal Computer purchases or leases made with funds involved with this Grant Agreement. The Department's standards are specifically addressed in Paragraph XXXII of this Grant Agreement.
2. If the Grantee has an exclusive vendor, obtained through a competitive bidding process, from whom all office equipment and related items are purchased, the Grantee shall utilize said vendor. If such exclusive vendor is not used by the Grantee, then three competitive price estimates shall be procured and documented by the Grantee before the personal computer hardware and software shall be purchased. A letter stating which of the above methods is used to satisfy this requirement shall be forwarded to the program staff at the Department within 30 days of the aforementioned purchase. This section supersedes Paragraph 33A of Appendix D, Standard General Terms and Conditions.
3. The Grantee shall be responsible for returning any personal computer hardware, software, and peripherals to the Department within 120 days of the Grant Agreement's termination. Should the parties agree to extend the Grant Agreement term, or enter into a new Grant Agreement, either of which shall only be evidenced by further written agreement, the Grantee may be allowed to continue to maintain possession of said equipment at the Department's discretion.

MEANING OF TERMS "CONTRACT" AND "CONTRACTOR"

The parties understand the terms "Contract" and "Contractor" within this Agreement shall mean "Grant Agreement" and "Grantee" respectively.

FINAL GRANT AGREEMENT APPROVAL

This Grant Agreement shall not be legally binding until all signatories, including those signing their approvals for form and legality, have signed the agreement and the Commonwealth provides a fully signed copy to the Grantee.

COMMONWEALTH TRAVEL AND SUBSISTENCE RATES

The Grantee shall adhere to the requirements for travel and subsistence rates as described in BDAP's Fiscal Manual.

MINIMUM PERSONAL COMPUTER CONFIGURATIONS

The parties agree that during the Grant Agreement term, the minimum computer configurations shall be in accordance with the current Commonwealth minimum personal computer configurations in effect at the time of the computer purchase to ensure compatibility with the Commonwealth CONNECT network. The personal computer configurations are as follows:

Pentium IV processor, 1.5 GHz or faster
256 megabyte RAM
40 Gigabyte hard drive
16 megabyte AGP graphic card
17" SVGA monitor
48x internal ATAPI EIDE CD-ROM
Intel 100 Mbps Network Interface Card
Windows keyboard
Wheel/Scroll mouse
Windows 2000 Professional

If such configurations change during the term of this Grant Agreement, such changes shall become a part of this Grant Agreement and shall supercede any prior configurations. The Department shall notify the Grantee by letter of the subsequent configurations and the effective date of any such change.

CHARITABLE CHOICE

SCAs are required to adhere to Federal Statutory language (42 CFR Part 54), on Charitable Choice provisions. Charitable Choice applies to both prevention and treatment services; however, funding cannot be expended for inherently religious activities such as worship, religious instruction, or proselytization. More specifically, SCAs shall:

1. Assure that religious organizations under contract and providing drug and alcohol treatment provide notice to their clientele regarding their right to be referred to alternative treatment services;

2. Ensure that religious organizations under contract and providing drug and alcohol treatment make referrals to alternative treatment services when requested by their clientele;
3. Fund or provide, or both, alternate and comparable services within a reasonable period of time to which the client has no religious objection (it need not be a secular organization, but merely one to which the client has no religious objections);
4. Effectively monitor adherence to the above requirements, to include identifying those contracted prevention and treatment providers who identify themselves as a religious organization or profess religious beliefs as part of the services they provide on behalf of the SCA;
5. Assure notification from a contracted religious organization when a referral is made to an alternate and comparable service within a reasonable period of time to which the client has no religious objection. Notification is necessary in order to track and report the number of referrals made by contracted religious organizations.

INTEREST INCOME AND THIRD PARTY INCOME

1. State and federal funds received under this Grant Agreement shall be promptly deposited in an insured interest-bearing account. Interest income derived from such deposits is Departmental funds and, as such, shall be reported on a bi-annual basis each year of the Grant Agreement to the Department in accordance with the Bureau of Drug and Alcohol Programs (BDAP) Report Schedule. All interest income earned by the Grantee from the use of BDAP funds obtained through this Grant Agreement (except for third party reimbursement for program services) shall be utilized before BDAP funding is utilized, or to purchase additional services. All subcontractors, except fee for service providers, that derive interest income from Departmental funds provided to such subcontractors by the Grantee shall also be required to utilize such income before BDAP funding is utilized or to secure additional eligible drug and alcohol services.
2. The Grantee and subcontractors shall ensure that funds received under this Grant Agreement are not utilized to pay for any item or service to the extent that payment has been made or can reasonably expect to be made with respect to that item or service through third party income. Third party income resulting from the provision of services under this Grant Agreement shall be applied against the approved cost or charge of such services rendered during that same period in order to reduce the amount of reimbursement due from the Department or Grantee. Examples of such third party income include, but are not limited to, medical assistance reimbursements, client fees, insurance reimbursements, training fees, and food stamp redemptions. Records of receipt and disposition of fees shall be maintained in accordance with Paragraphs 9, 10 and 11 of Section 24.

STANDARD GENERAL TERMS AND CONDITIONS

(The following general terms and conditions are standardized contract provisions. They may be varied only with the express permission of the Office of Legal Counsel of the Department of Health ("**Department**"). Such permission shall accompany the contract during the process of execution by the Governor's Office, Office of Attorney General and the Department.)

1. DEFINITIONS.

A. **Contracting Officer.** The person designated to act for the Department in the processing of this contract. The person so designated is the Deputy Secretary for Administration.

B. **Project Officer.** The person designated to act for the Department in administering this contract.

2. CONTRACT CONSTRUCTION.

The provisions of this Agreement shall be construed in accordance with the provision of the Laws of the Commonwealth of Pennsylvania. All questions or disputes arising between the parties hereto respecting any matter pertaining to this Agreement or any part thereof or any breach of contract arising thereunder may be referred by the Contractor to the Board of Claims pursuant to the Act of May 20, 1937, P.L. 728, No. 193, 72 P.S. §4651-1, as amended. This shall be the exclusive remedy for the Contractor to resolve such questions and disputes if the Contractor and the Department are unable to resolve them between themselves. Settlement of disputes under this provision must be prior to the final payment to Contractor.

3. INDEPENDENT CONTRACTOR.

The Contractor shall perform its services under this Agreement as an independent contractor and shall provide public liability, property damage and workers' compensation insurance, insuring as they may appear, the interests of all parties to the Agreement against any and all claims which may arise out of Contractor's operations under the terms of this Agreement. The Contractor shall accept full responsibility for the payment of premiums for workers' compensation and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for its employees who are performing services specified by this Agreement.

4. DEPARTMENT HELD HARMLESS.

The Contractor agrees to indemnify, defend and save harmless the Commonwealth (including the Department), its officers, agents and employees: (a) from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other persons, firms or corporations furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement; and (b) from any and all claims

and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Agreement; and (c) against any liability, including costs and expenses, for violation of proprietary rights or right of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Agreement or based on any libelous or other unlawful matter contained in such data.

5. ASSIGNABILITY.

The Contractor shall not assign the agreement, or payment thereunder, to any third party without prior written approval by the Department.

6. SUB-CONTRACTS.

Except for those sub-contracts specifically authorized by this Agreement, Contractor shall not enter into sub-contracts for any of the work contemplated under this Agreement without obtaining prior written approval of the Department, which shall be attached to the original Agreement, and subject to such conditions and provisions as the Department may deem necessary. PROVIDED, however, that notwithstanding the foregoing, unless otherwise provided herein, such prior written approval shall not be required for the purchase by Contractor of articles, supplies, equipment and services which are both necessary for and merely incidental to the performance of the work required under this Agreement; and PROVIDED, further, however, no provision of this clause and no such approval by the Department of any sub-contract shall be deemed in any event in any manner to provide for the incurrence of any obligation of the Department in addition to the total agreed-upon price. The officials who are authorized to give approval for the Department are the Secretary, the appropriate Deputy Secretary, or the Project Officer.

7. OTHER CONTRACTORS.

The Department may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors and Department employees and carefully fit its work to such additional work. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by Department employees.

This paragraph shall be included in the contracts of all contractors with whom this Contractor will be required to cooperate. The Department shall equitably enforce this paragraph as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

8. AVAILABILITY OF INFORMATION.

During the period of this Agreement, all information obtained by the Contractor through work on the project shall be made available to the Department immediately upon demand.

9. EXAMINATION OF FISCAL RECORDS.

A. Contractor agrees to maintain books, records, documents and other evidence pertaining to the costs and expenses of this Agreement (hereinafter referred to in this paragraph *I* as "the records"), to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract. If Contractor is not a public body, Contractor agrees to maintain books, records, documents and other evidence in accordance with accounting procedures and practices which meet generally accepted accounting principles.

B. If this Agreement provides funding for a clinic or program which receives income or funding other than directly through this Agreement (such as, but not limited to, third party reimbursement for patients), Contractor agrees that all parts of this paragraph 9 of these Standard General Terms and Conditions shall also apply to Contractor's records pertaining to such other sources of funding or income supporting the clinic or program.

C. Contractor agrees to make available at the Office of the Contractor at all reasonable times during the term of this Agreement and the period set forth in Paragraph 11 below, any of the records for inspection, audit or reproduction by any authorized representative of the Department, the Department's Comptroller, the Auditor General, the Inspector General or Federal auditors.

D. The provisions of this paragraph 9 shall be applicable to and included in each sub-contract hereunder. The term "sub-contract" as used in this paragraph excludes purchase orders not exceeding \$1,000 and sub-contracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

E. Contractor agrees to collect statistical data of a fiscal nature on a regular basis and to make fiscal statistical reports at times prescribed by, and on forms furnished by the Department.

10. PROGRAM RECORDS.

A. Contractor agrees to maintain program records required by the Department and agrees that a program and facilities review, including meetings with consumers, review of service records, review of service policy and procedural issuances, review of staffing ratios and job descriptions, and meetings with any staff directly or indirectly involved in the provision of services may be conducted at any reasonable time by State and Federal personnel and other persons duly authorized by the Department.

B. Contractor agrees to maintain program statistical records required by the Department to produce program narrative and statistical data at times prescribed by, and on forms furnished by the Department.

C. The Contractor shall submit progress reports in a format and on a schedule specified by the Department.

11. RECORD RETENTION REQUIREMENTS.

All records kept pursuant to Paragraphs 9 and 10 shall be retained pursuant to the provisions of this paragraph 11.

A. The Contractor shall preserve and make available its records for a period of four years from the date of final payment under this Agreement, and for such period, if any, as is required by applicable statute, by any other paragraph of this Agreement, or by sub-paragraphs (1) or (2) below.

1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of four years from the date of any resulting final payment.

2. Records which relate to litigation or the settlement of claims arising out of the performance of this Agreement, or costs and expenses of this Agreement as to which exception has been taken by the auditors, shall be retained by the Contractor until such litigation, claims, or exceptions have been disposed of.

B. Except for the records described in sub-paragraph A(2) above, the Contractor may, in fulfillment of its obligation to retain its records as required by this paragraph, substitute photographs, microphotographs, or other authentic reproductions of such records, after the expiration of two years following the last day of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Department, with the concurrence of the auditors.

12. OTHER FEDERAL FUNDS.

If the Contractor is contributing toward the general contract cost, the Contractor certifies that the Federal funds to be used under this Agreement do not replace or supplant in any way, State or local funds for already existing services. Contractor further certifies that the services to be provided under this Agreement are not already available without cost. Contractor further certifies that the addition of Federal funds will result in a commensurate program expansion.

13. QUALITY ASSURANCE.

Unless otherwise provided herein, the Contractor with due diligence shall furnish all necessary qualified personnel, material and equipment, managing and directing same to complete the work required by this Agreement. The Contractor's work hereunder shall be monitored by the Project Officer and the Project Officer's designated representatives.

14. PROGRAM CHANGES.

The Project Officer may at any time, by written order, make changes in the statement of work, provided such changes are within the general scope of the statement of work and provided

further that the total cost of this Agreement is not exceeded. A change in the scope of work or an increase in the total cost of this Agreement shall require a fully executed contract amendment. The Project Officer and the Contractor shall mutually determine whether the ordered changes can be accomplished within the total contract cost and the extent of change, if any, in delivery schedules required by the ordered changes. Failure of the Project Officer and the Contractor to arrive at such mutual determinations shall be a dispute concerning a question of fact within the meaning of the paragraph 2 of this Appendix entitled "Contract Construction."

15. WRITTEN COMMITMENT.

Any written commitment or representation of the Contractor made within the scope of this Agreement shall, if accepted by the Project Officer in writing, be binding upon the Contractor and shall be incorporated as a part of this Agreement.

16. BACKGROUND MATERIAL.

If requested, the Contractor shall deliver to the Department background material prepared or obtained by the Contractor incidental to the performance of this Agreement. Background material is defined as original work papers, notes and drafts prepared by the Contractor to support the data and conclusions in the final reports, and includes completed questionnaires, etc., and material in electronic data processing form, computer programs, other printed materials, pamphlets, maps, drawings and books acquired by the Contractor during the term of this Agreement and directly related to the services being rendered.

17. KEY PERSONNEL.

The personnel specified in this Agreement are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the Project Officer reasonably in advance and shall submit justification including proposed substitutions, in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Project Officer.

18. INSPECTION AND ACCEPTANCE.

Final inspection and acceptance of all work required under this Agreement shall be performed by the Project Officer.

19. TRAVEL AND SUBSISTENCE COSTS.

The Department shall not be liable for travel or subsistence costs except as specifically set forth in this Agreement.

20. DATA, COPYRIGHTS, AND DISCLOSURE.

A. Definition: The term "data," as used herein, includes but is not necessarily limited to written reports and analyses, diagrams, maps, system designs, computer programs, flow charts, punched card decks, magnetic tapes, diskettes, drawings, studies, manuals, brochures, advertisements, and work of any similar nature which is required to be performed under this Agreement. It does not include Contractor's financial reports or other information incidental to Agreement administration.

B. Rights in Data: Data submitted to and accepted by the Department under this Agreement shall be the property of the Department, and it shall have full right to use such data for any official purpose in whatever manner deemed desirable and appropriate. Such use shall be without any additional payment to or approval by the Contractor.

C. Data Collection: All data collected under this Agreement (computer tapes, programs and other software developed, and other documentation) shall become the property of the Department at the close of the contract period.

D. Forms Approval: All forms, questionnaires, survey instruments, etc., developed under this Agreement shall be subject to prior written approval by the Department.

E. Data Processing: All computer programs, tapes, and software developed under this Agreement, and any data or information provided to the Department by diskette or electronic means, shall be compatible with Department computer systems. Specifications, if not included elsewhere in this Agreement, may be obtained from the Project Officer.

F. Copyrights: Contractor relinquishes any and all copyrights and/or privileges to data developed under this Agreement. Contractor shall not include in the data any copyrighted matter without the written approval of the Department unless Contractor provides the Department with written permission of the copyright owner for the Department to use such copyrighted matter in a manner provided herein. Contractor shall exert all reasonable efforts to advise the Department, at the time of delivery of data furnished under this Agreement, of all invasions of the right to privacy contained therein.

G. Defense of Infringement Claim: The Contractor shall defend any suit or proceeding brought against the Commonwealth, including the Department, or their officials or employees, on account of any alleged infringement of any copyright arising out of the performance of this Agreement, including any suit or proceeding relating to all work, services, materials, reports, studies and computer programs provided by the Contractor; PROVIDED, nevertheless, that the Commonwealth shall provide prompt notification in writing of such suit or proceedings, together with full right, authorization and opportunity to conduct the defense thereof, and full information and all reasonable cooperation for the defense of the same. If principles of governmental or public law are involved, the Commonwealth may participate in the defense of any such action. The Contractor shall pay all damages and costs awarded therein against the Commonwealth. If information and assistance are furnished by the Commonwealth at Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written request. If any of the data, materials, reports, studies or computer programs provided by the Contractor are held to

constitute infringement, and the use of publication thereof is enjoined in such suit or proceeding, the Contractor shall, at its own expense and at its option, either procure the right to publish or continue use of such infringing data, materials, reports, studies or computer programs, replace them with non-infringing items, or so modify them so that they are no longer infringing. If after a reasonable time and good faith effort, the Contractor is unable to comply with the requirements of the immediately preceding sentence, the Contractor shall return to the Department that portion of contract funds expended by the Contractor in relation to the infringing item. The obligations of the Contractor under this paragraph continue without time limit.

H. Public Notices: All notices, informational pamphlets, press releases, research reports and similar public notices prepared and released by the Contractor, shall include the statement, "This project is funded, in part, under a contract with the Pennsylvania Department of Health. Basic data for use in this study were supplied by the Pennsylvania Department of Health, Harrisburg, Pennsylvania. The Department specifically disclaims responsibility for any analyses, interpretations or conclusions."

I. Press Office Approval: All printed material is subject to written preapproval by the Press Office of the Department. "Printed material" includes but is not limited to brochures, manuals, labels, newsletters, art work, and print advertisements. All printed material must bear the Department logo and the names and titles of the Governor and the Secretary of Health unless otherwise authorized in writing by the Department Press Secretary.

All material produced for radio and television must also be approved for quality of content and accreditation in writing by the Department Press Secretary prior to final production as well as after final production.

J. Sensitive Information: The Contractor shall not publish or otherwise disclose, except to the Department and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a publication whereby the information or data furnished by or about any particular person or establishment can be identified, except with the informed consent of such person or establishment.

21. CONFIDENTIALITY.

The Contractor shall maintain the confidentiality of medical records of individuals served by the Contractor under this Agreement except to disclose such confidential information to the Department for purposes of consultation or the Department's monitoring of this Agreement.

22. COLLECTION OR RECORDING OF INFORMATION.

The Contractor shall submit to the Project Officer for written approval prior to use, copies of each questionnaire and survey plan, including plans for structured interviews and consultations, for the collection of information upon identical items from five or more individuals or organizational elements. The term "structured interview and consultation" is defined as an

interview or consultation which follows a predesigned line of questioning that takes approximately the same form for all the respondents being interviewed or consulted.

23. INTERESTS OF MEMBERS OF THE COMMONWEALTH AND OTHERS.

No officer, member or employe of the Commonwealth and no member of its General Assembly, who exercises any functions or responsibilities under this Agreement, shall participate in any decision relating to this Agreement which affects that person's personal interest or the interest of any corporation, partnership, or association in which that person is, directly or indirectly, interested; nor shall any such officer, member or employe of the Commonwealth or member of its General Assembly have any interest, direct or indirect, in this Agreement or the proceeds thereof.

24. INTEREST OF CONTRACTOR.

The Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that in the performance of this Agreement, it shall not knowingly employ any person having such interest. Contractor further certifies that no member of the board of the Contractor or any of its officers or directors have such an adverse interest.

25. DEFAULT AND TERMINATION.

A. The Department may, subject to the provisions of sub-paragraph C below, by written notice of default to the Contractor, immediately terminate upon such terms as said notice shall set forth, the whole or any part of this Agreement in any one of the following circumstances:

(1) If the Contractor fails to perform the services within the time specified herein or any extension thereof; or

(2) If the Contractor fails to perform any of the other provisions of this Agreement, or so fails to make progress as to endanger its terms, and in either of these two circumstances does not cure such failure within a period of ten days (or such longer period as the Department may authorize in writing) after receipt of notice from the Department specifying such failure.

B. In the event the Department terminates this Agreement in whole or in part as provided in sub-paragraph A above, the Department may procure, upon such terms and in such manner as the Project Officer may deem appropriate, services similar to those so terminated and the Contractor shall be liable to the Department for any excess costs for such similar services, provided that the Contractor shall continue the performance of this Agreement to the extent not terminated under the provisions of this paragraph 25.

C. Except with respect to defaults of sub-contractors, the Contractor shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to,

acts of God or of the public enemy, acts of the Commonwealth of Pennsylvania in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restriction, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a sub-contractor, and if such default arises out of causes beyond the control of both the Contractor and sub-contractor and without the fault or negligence of either of them, the Contractor shall not be liable unless the services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

D. If this Agreement is terminated as provided in sub-paragraph A above, the Department shall require the Contractor to transfer title and deliver to the Department such partially completed reports or other documentation as the Contractor has produced under this Agreement. Payments for completed reports and other documentation delivered to and accepted by the Department shall be at the Agreement price. Payment for partially completed reports and other documentation delivered to and accepted by the Department shall be in an amount agreed upon by the Contractor and the Project Officer. Failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of Paragraph 2 of this Appendix entitled "Contract Construction." The Department may withhold from amounts otherwise due the Contractor for such completed or partially completed reports or other documentation such sum as the Department determines to be necessary to protect it against loss because of outstanding liens or claims of former lien holders.

The rights and remedies of the Department provided in this paragraph 25 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

E. The Department may cancel this Agreement at any time for the convenience of the Commonwealth by giving written notice to the Contractor. Should the Department exercise its rights under this clause, the Department will pay the Contractor for all work done by the Contractor under this Agreement until such time as the Department sets forth in its written notice to Contractor.

F. Should the Contractor become insolvent, or if proceedings in bankruptcy shall be instituted by or against the Contractor, the remaining or unexpired portion of this Agreement may, at the election of the Department, be terminated.

G. In addition, this Agreement may be cancelled by either party upon 30 days advance written notice.

26. CONTRACT CONTINGENT UPON LEGISLATIVE APPROPRIATION.

Payment hereunder is subject to the availability of State and/or Federal funds.

27. COVENANT AGAINST CONTINGENT FEES.

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for commission, percentage, brokerage or contingent fee (excepting bona fide employees or bona fide established commercial selling

agencies maintained by the Contractor for the purpose of securing business). For breach or violation of this warranty, the Commonwealth shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the consideration otherwise due under this Agreement, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee

28. ENVIRONMENTAL PROTECTION.

In carrying out this Agreement, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.

29. EQUAL EMPLOYMENT OPPORTUNITY.

A. Contractor shall not discriminate against any employe, applicant for employment, independent contractor or any other person because of race, color, religious creed, ancestry, national origin, age, or sex. Contractor shall take affirmative action to insure that applicants are employed, and that employes or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, or sex. Such affirmative action shall include, but is not limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. Contractor shall post in conspicuous places, available to employes, agents, applicants for employment, and other persons, a notice to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

B. Contractor shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age, or sex.

C. Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Contractor.

D. It shall be no defense to a finding of noncompliance with this nondiscrimination clause that Contractor had delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the Contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanction.

E. Where the practices of a union or training program or other source of recruitment will result in the exclusion of minority group persons, so that Contractor will be unable to meet its obligations under this nondiscrimination clause, Contractor shall then employ and fill vacancies through other nondiscriminatory employment procedures.

F. Contractor shall comply with all State and Federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Contractor's noncompliance with the nondiscrimination clause of this Agreement or with any such laws, this Agreement may be terminated or suspended, in

whole or in part, and Contractor may be declared temporarily ineligible for further Commonwealth contracts, and other sanctions may be imposed and remedies invoked.

G. Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by, the Department and the Office of Administration, Bureau of Affirmative Action, for purposes of investigation to ascertain compliance with the provisions of this clause. If Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Department or the Bureau of Affirmative Action.

H. Contractor shall actively recruit minority sub-contractors or sub-contractors with substantial minority representation among their employees.

I. Contractor shall include the provisions of this nondiscrimination clause in every sub-contract, so that such provisions will be binding upon each sub-contractor.

J. Contractor obligations under this clause are limited to the Contractor's facilities within Pennsylvania, or where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

30. *EQUAL OPPORTUNITY FOR THE HANDICAPPED.*

A. The Contractor agrees to abide by Section 504 of the Rehabilitation Act of 1973, as amended (Public Law 93-112, 29 U.S.C. §794, as amended) and implementing Federal regulations. The Contractor assures that any benefits, services, or employment, available through the Contractor to the public by way of this Agreement's funds, shall not be denied persons with handicaps who are otherwise qualified or eligible for the benefits, services, or employment available as a result of this Agreement.

B. The Contractor shall include the provisions of sub-paragraph A above in every sub-contract under this Agreement so that such provision binds each sub-contractor.

31. *PROVISIONS CONCERNING THE AMERICANS WITH DISABILITIES ACT.*

During the term of this Agreement, the Contractor agrees as follows:

A. Pursuant to federal regulations promulgated under the authority of the Americans With Disabilities Act, 28 C.F.R. §35.101 et seq., the Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Agreement or from activities provided for under this Agreement. As a condition of accepting and executing this Agreement, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. §35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

B. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of sub-paragraph A above.

C. The Contractor shall include the provisions of sub-paragraph A above in every sub-contract under this Agreement so that such provision binds each sub-contractor.

32. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE.

During the term of the Contract, the Contractor agrees as follows:

A. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, creed, or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

B. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under the Contract on account of gender, race, creed, or color.

C. The Contractor and any subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

D. The Contractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.

E. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the contracting officer and the Department of General Services' Bureau of Contract Administration and Business Development for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting officer or the Bureau of Contract Administration and Business Development.

F. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.

G. The Commonwealth may cancel or terminate the Contract, and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

33. DISPOSITION OF EQUIPMENT.

A. Contractor agrees to obtain all supplies and equipment for use in the performance of this Agreement at the lowest practicable cost and to purchase by means of a system of competitive bidding.

B. Title to all property furnished by the Department shall remain with the Department. Title to all personal property acquired by the Contractor, including purchase by lease-purchase agreement, for the cost of which the Contractor is to be reimbursed under this Agreement, shall vest in the Contractor during the term of this Agreement. Upon cancellation or termination of this Agreement, such purchased personal property which has remaining useful life shall become the property of the Department, or at the election of and with written approval of the Department, may be disposed of by the Contractor in accordance with the following provisions:

(1) If the Contractor wishes to retain any items of such purchased property, both parties will arrange for an independent third-party appraisal of these property items and the Contractor will reimburse the Department for the value of the remaining life of the property on the basis of such appraisal. Unless otherwise agreed upon in writing by the Department, the Contractor shall be responsible for the cost of appraisal.

(2) With the prior written permission of the Department and the approval of the Governor's Office of Budget, Contractor may sell the property and reimburse the Department for its appropriate share, providing the Department is notified ten days in advance of the date of the sale.

C. All property furnished by the Department or personal property acquired by the Contractor, including purchase by lease-purchase agreement, for which the Contractor is to be reimbursed under this Agreement shall be deemed Commonwealth property for the purpose of sub-paragraphs D, E, and F of this paragraph 33.

D. Contractor shall maintain and administer in accordance with sound business practices a program for the maintenance, repair, protection, preservation and insurance of Commonwealth property so as to assure its full availability and usefulness.

E. The Commonwealth property and any property purchased under this Agreement shall, unless otherwise provided herein, or approved in writing by the Department and the Governor's Office of Budget, be used only for the performance of this Agreement.

F. In the event that Contractor is indemnified, reimbursed or otherwise compensated for any loss or destruction of or damage to the Commonwealth's property, Contractor shall use the proceeds to repair, renovate or replace the Commonwealth property involved, or shall credit such proceeds against the cost of the work covered by the Agreement, or shall otherwise reimburse the Department as directed by the Department.

G. Should the Contractor purchase equipment pursuant to this Agreement, the Contractor shall complete the Department's Equipment Inventory Form and return it to the Department with the Contractor's invoice which seeks reimbursement for such equipment under this Agreement. The Department will provide the Contractor with the form when this Agreement provides for the purchase of equipment.

34. *GENERIC DRUGS.*

If under this Agreement the Contractor prescribes or dispenses drugs to consumers, it shall do so in accordance with Act 259 of November 24, 1976, P.L. 1163, 35 P.S. §960.1 et seq., as amended, and prescribe and dispense generically equivalent drugs rather than brand name drugs whenever possible.

35. *CONTRACTOR OFFSET PROVISION.*

The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other debt of the Contractor or its subsidiaries that is owed to the Commonwealth and not being contested on appeal against any payments due the Contractor under this or any other agreement with the Commonwealth.

36. *EXTENSION RIGHT.*

The Commonwealth reserves the right, upon notice to the Contractor, to extend the term of the Agreement for up to three (3) months upon the same terms and conditions. This will be utilized to prevent a lapse in Agreement coverage and only for the time necessary, up to three (3) months, to enter into a new Agreement.

37. *CONTRACTOR INTEGRITY PROVISIONS.*

A. Definitions.

(1) Confidential information means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.

(2) Consent means written permission signed by a duly authorized officer or employe of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this Agreement.

(3) Contractor means the individual or entity that has entered into this Agreement with the Commonwealth, including directors, officers, partners, managers, key employes, and owners of more than a five percent interest.

(4) Financial Interest means:

(a) Ownership of more than a five percent interest in any business; or

(b) Holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

(5) Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

B. The Contractor shall maintain the highest standards of integrity in the performance of this Agreement and shall take no action in violation of State or Federal laws, regulations, or other requirements that govern contracting with the Commonwealth.

C. The Contractor shall not disclose to others any confidential information gained by virtue of this Agreement.

D. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employe of the Commonwealth.

E. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly, or indirectly, offer, give, or agree to promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employe of the Commonwealth.

F. Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this Agreement except as provided therein.

G. Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other contractor, sub-contractor, or supplier providing services, labor, or material on this project.

H. The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.

I. The Contractor, by execution of this Agreement and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he or she has not violated any of these provisions.

J. The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the

Inspector General to the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents or files of any type or form which refer to or concern this Agreement. Such information shall be retained by the Contractor for a period of three years beyond the termination of the Agreement unless otherwise provided by law.

K. For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another contractor to complete performance hereunder, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

38. *CONTRACTOR RESPONSIBILITY PROVISIONS.*

A. The Contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth Agreement, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.

B. The Contractor must also certify, in writing, that as of the date of its execution of any Commonwealth Agreement it has no tax liabilities or other Commonwealth obligations.

C. Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Agreement through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the contracting agency if, at any time during the term of the Agreement, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

D. The failure of the Contractor to notify the contracting agency of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Agreement with the Commonwealth.

E. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

F. The Contractor may obtain a current list of suspended and debarred Commonwealth Contractors by either searching the Internet at www.dgs.state.pa.us/dgs/cwp/view.asp?a=3&Q=115573&dgsNav=5053 or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138

39. ASSIGNMENT OF ANTITRUST CLAIMS.

Contractor and the Commonwealth recognize that in actual economic practice, overcharges by Contractor's suppliers resulting from violations of state and federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of this Agreement, and intending to be legally bound, Contractor assigns to the Commonwealth all right, title and interest in and to any claims Contractor now has or may hereafter acquire under State or Federal antitrust laws relating to the goods or services which are the subject of this Agreement.

40. LAWS AND REGULATIONS.

This Agreement is subject to the provisions of all pertinent Federal, State, and local laws and regulations and all amendments made thereto. Definitions of service, eligibility of recipients of service, and other limitations on the purchase of the services established in this Agreement are subject to modification by amendments to Federal, State and local laws and regulations without further notice to the Contractor.

41. CORPORATE PRACTICE OF MEDICINE DOCTRINE.

The Contractor shall comply with and not violate the corporate practice of medicine doctrine.

42. INTEGRATION CLAUSE.

The parties agree that this Agreement constitutes the entire contract.

AUDIT REQUIREMENTS

I. INTRODUCTION AND DETERMINATION OF APPLICABLE AUDIT REQUIREMENTS

The Department of Health (Department) provides federal and state financial assistance to a variety of entities. Audit requirements may be either a federal mandate or a Department mandate. **The applicable audit requirements are determined according to the source(s) of the contract's funding.** If the contract is funded by federal funds only or by a combination of federal funds and state funds, the audit requirement is federally mandated and prescribed by the *Single Audit Act, as amended, 31 U.S.C. 7501 et seq.*; U.S. Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, as amended; and any amendment to such other applicable law or regulation which may be enacted or promulgated by the federal government. If the contract is funded by state funds only, the audit requirement is Department mandated.

The specific audit requirements of OMB Circular A-133 are described in Section II of this Appendix.

The specific audit requirements of Department mandated audits are described in Section III of this Appendix. The costs of Department mandated audits shall be reimbursed by the Department when said costs are specifically budgeted in the contract's budget as audit expenses.

General audit provisions that are applicable to ALL contracts are described in Section IV of this Appendix.

The source(s) of this contract's funding are identified in Section V of this Appendix.

II. FEDERALLY MANDATED AUDIT REQUIREMENTS (OMB CIRCULAR A-133)

A. General Requirements

If the contractor is a local government or non-profit organization and expends total federal awards of \$500,000 or more during its fiscal year, received either directly from the federal government or indirectly from a recipient of federal funds, the contractor is required to have an audit made in accordance with the provisions of OMB Circular A-133.

The contractor is required to have a Department mandated (program-specific) audit made in accordance with the requirements of Section III of this Appendix when BOTH of the following conditions apply:

1. The contractor expends less than \$500,000 of total federal awards received from all sources during its fiscal year; AND
2. The contractor expends \$300,000 or more of state funds received under this contract during its fiscal year.

As stated above, Department mandated audits shall be performed in accordance with the requirements of Section III of this Appendix, unless the contractor has been notified in writing by the Department prior to the termination of the applicable audit period that the audit requirement has been waived.

Unless stated otherwise in the terms of this contract, the contractor is not required to have an audit performed when EITHER of the following conditions apply:

1. The contractor expends less than \$300,000 of state funds received under this contract during its fiscal year and it expends less than \$500,000 of total federal awards received from all sources (i.e., any and all other federal awards expended during the contractor's fiscal year, received either directly from the federal government or indirectly from a recipient of federal funds) during its fiscal year.
2. The contract is funded by either state or federal funds, and all contract monies expended during the contractor's fiscal year are received on a strictly fee for service basis. In addition, all federal awards

expended from all sources during the contractor's fiscal year are received on a strictly fee for service basis, regardless of the amount of federal awards expended.

However, even if the contractor is not required to have an audit performed, the contractor is required to maintain auditable records of federal awards and any state funds which supplement such awards, and to provide access to such records by federal and state agencies or their designees.

B. Submission of Audit Information to the Commonwealth

The contractor shall submit copies of the audit report package to the Commonwealth, which shall include:

- Data Collection Form;
- Financial statements and schedule of expenditures of federal awards;
- Auditors' reports on the financial statements and schedule of expenditures of federal awards, internal control and compliance as well as a schedule of findings and questioned costs;
- Summary schedule of prior audit findings;
- Corrective action plan; and
- Management letter comments.

In instances where a federal program-specific audit guide is available, the audit report package for a program-specific audit may be different and should be prepared in accordance with the audit guide and OMB Circular A-133.

The number of copies to be submitted shall equal one for the Office of the Budget's Bureau of Audits (archival copy) plus one for each Commonwealth agency which provided federal pass-through awards to the contractor, as reflected in the contractor's Schedule of Expenditures of Federal Awards. The audit report package shall be submitted to:

OFFICE OF THE BUDGET BUREAU OF AUDITS
DIVISION OF SUBRECIPIENT AUDIT REVIEW
BELL TOWER 6TH FLOOR
303 WALNUT STREET
HARRISBURG PA 17101

Phone: (717) 783-9120

Fax: (717) 783-0361

III. DEPARTMENT MANDATED AUDIT REQUIREMENTS (PROGRAM-SPECIFIC AUDITS)

A. Period Subject to Audit and General Audit Requirements

The contractor shall have an audit performed when it expends \$300,000 or more of state funds received under this contract within the twelve-month period immediately following the effective date of the contract, or when it expends \$300,000 or more of state funds received under this contract within any successive twelve-month period thereafter, unless notified in writing by the Department prior to the termination of the applicable audit period that the audit requirement has been waived. If the contract or any successive period is for a period of less than twelve months, but the contract amount expended by the contractor during said period includes \$300,000 or more of state funds, the contractor is also required to have an audit performed for the entire contract or successive period, unless notified in writing by the Department prior to the termination of the applicable audit period that the audit requirement has been waived.

When the contractor is required to have a program-specific audit performed, it must be a financial audit made in accordance with the provisions of generally accepted government auditing standards (GAGAS) issued in the U.S. General Accounting Office's *Government Auditing Standards* ("Yellow Book"), latest revision as of the time of the audit; the audit requirements of the laws and regulations governing the program(s) in which the contractor participates; and the terms of this contract. With the written consent of the Department, the contractor may be permitted to vary the audit period for these audits.

B. Minimum Audit Reporting Requirements

When a program-specific audit is performed, the audit shall include, at a minimum, the following:

1. A separate **Schedule of Contractual Performance**, which shall reflect the contract's budget and reporting period and include a comparison of budgeted to actual expenditures/services, must be prepared for each contract the contractor includes in the program-specific audit. Should the audit period differ from the state fiscal year (i.e., July 1 through June 30), the schedule(s) shall be accompanied by information allowing it/them to be reconciled to the state fiscal period(s) affected.
2. **Notes to the financial schedule(s)**. The following must be included:
 - a. Definition of the reporting entity
 - b. Summary of significant accounting policies used in preparing the schedule(s)
 - c. Other informative disclosures (as necessary)
3. **Auditor's report on the financial schedule(s)** and any additional schedules required in the terms of this contract.
4. **Auditor's report on internal control**, including (where applicable) references to contract requirements and Department audit guidance. This report shall describe the scope of testing of internal control and the results of the tests, and, where applicable, refer to the separate Schedule of Findings and Questioned Costs described below.
5. **Auditor's report on compliance** with laws, regulations, and the provisions of this contract, noncompliance with which could have a material effect on the financial schedules. This report shall include (where applicable) references to contract requirements and Department audit guidance.
6. **Schedule of Findings and Questioned Costs** (if applicable). This schedule shall include the views of responsible officials of the contractor concerning the auditors' findings, conclusions, and recommendations. This schedule shall contain all findings and questioned costs for the financial schedules which are required to be reported in accordance with GAGAS. Specifically, the auditor shall report the following as audit findings in this schedule:
 - a. Reportable conditions in internal control over the program(s) (state and/or federal) that provide funding under this contract. The auditor shall identify reportable conditions which are individually or cumulatively material weaknesses.
 - b. Material noncompliance with the provision of laws, regulations, and the provisions of this contract.
 - c. Questioned costs specifically identified by the auditor (known questioned costs). In evaluating the effect of questioned costs on the opinion on compliance, the auditor shall consider the best estimate of total costs questioned (likely questioned costs), not just the known questioned costs. In reporting questioned costs, the auditor shall include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

d. Known fraud that affects a program (state and/or federal) that provides funding under this contract. The auditor is not required to make an additional reporting when the auditor confirms that the fraud was reported outside of the auditor's reports under the direct reporting requirements of GAGAS.

7. **Corrective Action Plan** (if applicable). At the completion of the audit, the **contractor** shall prepare a corrective action plan (CAP) to address each audit finding included in the audit report. The CAP shall provide the name(s) of the contact person(s) responsible for corrective action(s), the corrective action(s) planned, and the anticipated completion date(s) for the corrective action(s) planned. Further, if the contractor does not agree with an audit finding, it must clearly and completely explain the nature of its disagreement with the finding in the CAP. Finally, if the contractor believes that corrective action is not required, it must provide the specific reason(s) in the CAP.
8. **Status of Prior Audit Findings and Recommendations** (if applicable). The auditor shall report the status of uncorrected material findings and recommendations from prior audits that affect the current audit.
9. **Management Letter** (if applicable). If a letter is issued to management disclosing nonreportable conditions or other matters involving the internal control structure, it must be furnished with the audit report.

C. Submission of Department Mandated Audit Reports

When the contractor is responsible for obtaining a Department mandated audit, the audit report must be completed and submitted within 120 days of the termination of the contract or 120 days following the end of each twelve-month period (or fraction thereof) in case of a contract lasting more than twelve months. The contractor shall submit three (3) copies of the audit report to the Department of Health, at:

ATTN AUDIT RESOLUTION SECTION
PENNSYLVANIA DEPARTMENT OF HEALTH
BUREAU OF ADMINISTRATIVE AND FINANCIAL SERVICES
ROOM 830 HEALTH AND WELFARE BUILDING
PO BOX 90
HARRISBURG PA 17108

Phone: (717) 783-7280
Fax: (717) 783-3794

Technical assistance with respect to Department mandated audits will be provided by the Department's Audit Resolution Section at the above-listed address and telephone number.

D. Subcontractor Audit Requirements

As applicable, the contractor shall have subcontractors obtain audits of their contracts in accordance with Section III of this Appendix. The contractor shall make the requirements of Section III of this Appendix applicable to any subcontractor expending \$300,000 or more of this contract's state funds within the twelve-month period immediately following the effective date of the contractor's contract, or expending \$300,000 or more of this contract's state funds within any successive twelve-month period thereafter. If the subcontract or any successive period is for a period of less than twelve months, but the subcontractor expends \$300,000 or more of this contract's state funds during said period, the contractor is also required to make the requirements of Section III of this Appendix applicable to the subcontractor. **The contractor, not the Department, shall be responsible for the receipt, review, and resolution of such audits.** The contractor shall follow up on all findings disclosed in the audit report(s). The contractor shall retain such audits for a period of time which is the greater of four years after termination of the contractor's contract with the subcontractor or until resolution of any audit exceptions or other claims or actions involving a subcontract.

IV. GENERAL AUDIT PROVISIONS

A. Auditor Selection

The contractor is responsible for obtaining the necessary audit and securing the services of a certified public accountant or other independent governmental auditor. Federal regulations preclude public accountants licensed in the Commonwealth of Pennsylvania from performing audits of federal awards.

The Department's Comptroller Office may decide to perform those audits that are Department mandated. The contractor will be given written notification if the Comptroller's Office makes this decision. In the event that the Department's Comptroller Office does perform the audit, any audit costs included in the contract will revert to the Department. However, unless notified as provided above, the contractor is required to arrange for the audit as described above.

B. Questioned Costs

Any questioned costs identified as such in audit reports of either the contractor or its subcontractors shall be returned to the cognizant federal and/or state agencies providing the financial assistance, unless resolved to the satisfaction of said entities.

C. Sanctions (Remedies for Noncompliance with Audit Requirements)

The contractor's failure to provide an acceptable audit in accordance with the requirements of this Appendix may result in the Department initiating sanctions against the contractor including, but not limited to, the following actions:

1. Disallow the cost of the audit.
2. Withhold a percentage of the contract funding until the audit is completed satisfactorily and/or audit resolution is achieved.
3. Withhold or disallow administrative/overhead costs until the audit is completed satisfactorily and/or audit resolution is achieved.
4. Suspend subsequent contract funding until the audit is completed satisfactorily and/or the contractor has demonstrated the ability and/or willingness to comply with these contractual audit requirements.

D. Additional Audits

The Commonwealth reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial or performance nature, if deemed necessary by Commonwealth or federal agencies. Any such additional audit work will rely on work already performed by the contractor's auditor, and the costs for any additional work performed by the federal or state agencies will be borne by those agencies at no additional expense to the contractor.

E. Audit Working Papers and Reports

The contractor shall ensure that audit working papers and audit reports are retained by the contractor's auditor for a minimum of four years from the date of issuance of the audit report, unless the contractor's auditor is notified in writing by the Commonwealth or the cognizant or oversight federal agency to extend the retention period. Audit working papers shall be made available upon request to authorized representatives of the Commonwealth, the cognizant or oversight agency, the federal funding agency, or the General Accounting Office for inspection and/or reproduction.

F. Records Retention

The contractor is required to maintain records of state funds and federal awards. The contractor shall preserve all books, records and documents related to this contract for a minimum of four years from the date of final payment under this contract; or until all findings, questioned costs or activities have been resolved to the satisfaction of the Commonwealth; or as required by applicable federal laws and regulations, whichever is longer, unless this contract elsewhere provides for a shorter period; or unless the Department otherwise separately agrees in writing to a shorter period. The contractor shall provide federal and state agencies or their designees access to such books, records and documents for inspection, audit or reproduction.

V. CONTRACT FUNDING SOURCE(S)

ALL contracts must identify the amounts of federal and state funding provided by them. This identification must be made in accordance with Management Directive 305.14 Amended, *Identifying Payments to Local Governments and Other Subrecipients*. This identification must include the breakdown of federal and state dollars provided and the related federal and state financial assistance program name and number.

Lobbying Certification Form

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employe of any agency, a member of Congress, an officer or employe of Congress, or an employe of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employe of any agency, a member of Congress, an officer or employe of Congress, or an employe of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.

SIGNATURE: _____

TITLE: _____

DATE: _____

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: 1 a. contract b. Grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: 1 a. bid/offer/application b. initial award c. post-award	3. Report Type: 1 a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: 1 Prime 1 Subawardee Tier _____ <i>(if known)</i> Congressional District, <i>if known</i> : _____		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, <i>if known</i> : _____
6. Federal Department/Agency: _____	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known: _____	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI): _____	b. Individual Performing Services (including address if different from 10a) (last name, first name, MI): _____	
11 Information requested through this form is authorized by title 31 U.S.C., section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only		Authorized for Local Reproduction Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to Title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make a payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include, but are not limited to, subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State, and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10.
 - (a) Enter the full name, address, city, State, and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
 - (b) Enter the full name(s) of the individual(s) performing services, and include full address if different from 10(a). Enter the Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT PROVISIONS

This contract is funded by Federal block grant monies pursuant to the Federal Substance Abuse Prevention and Treatment Block Grant (SAPTBG) and in accordance with 42 U.S.C. Section 300x-31 and 45 CFR Section 96.135. None of this contract's funds shall be used to:

- A. Provide inpatient hospital services unless it is determined, in accordance with guidelines issued by the Secretary of Health and Human Services, that such treatment is a medical necessity for the individual involved and that the primary diagnosis of the individual is substance abuse, the services can be reasonably expected to improve the individual's condition or level of functioning and the individual cannot be effectively treated in a community-based, non-hospital, residential program of treatment and the hospital's substance abuse program follows national standard of substance abuse professional practice. The daily rate of payment provided to the hospitals for providing the services to the individual shall not exceed the comparable daily rate provided for community-based, non-hospital, residential programs of treatment for substance abuse; and that payment is only for services that are medically necessary, that is, only for those days that the patient cannot be safely treated in a residential, community-based program.
- B. Make cash payments to intended recipients of health services;
- C. Purchase or improve land, purchase, construct or permanently improve (other than minor remodeling if provided for in the line item budget of this contract) any building or other facility, or purchase major medical equipment. (No minor equipment may be purchased unless the line item budget specifically provides for such purchase);
- D. Satisfy any requirement for the expenditure of non-Federal funds as a condition for receipt of Federal funds;
- E. Provide financial assistance to any entity other than a public or non-profit private entity; or
- F. Provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines in writing that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for AIDS. (In addition, state law, Controlled Substance, Drug Device and Cosmetic Act, 35 P.S. Section 780-101 et seq., prohibits providing individuals with hypodermic needles or syringes.)

PRO-CHILDREN ACT OF 1994

The Contractor and all subcontractors shall agree to comply with the following certification required by P.L. 103-227 Sections 1041-1044, 20 U.S.C. Sections 6081-6084, also known as the Pro-Children Act of 1994, which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient hospital drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

The Contractor certifies that it will comply with the requirements of the Pro-Children Act of 1994 and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Pro-Children Act of 1994.

The Contractor agrees that it will require that the language of this certification be included in any subcontracts which contain provisions for children's services and that all subcontractors shall certify accordingly.

STUDENT ASSISTANCE PROGRAMS

- A. The Department will provide the Grantee funding under Appropriation 80-134 for each year of this Grant Agreement pursuant to the Safe and Drug Free Schools and Communities Act of 1986, P.L. 100-297, as amended by the Anti-Drug Abuse Act of 1988, P.L. 100-690, 20 U.S.C. §3171 et seq., as amended by the Safe and Drug Free Schools and Communities (SDFSC) Act of 1994. The Grantee shall use SDFSC funds for consultation services to school district personnel and core team members, and for assessment and group intervention services for those students involved in the Student Assistance Program (SAP). SDFSC funds shall not be used for the provision of treatment services.
- B. The Department will also provide the Grantee with State funds (Appropriation 10-653) and Substance Abuse Prevention and Treatment (SAPT) Block Grant funds (Appropriation 70-327) to support SAP. State funds provided for SAP under this Grant Agreement shall be used for consultation, assessment, group intervention or treatment services. SAPT Block Grant funds provided for SAP under this Grant Agreement shall be used for treatment services only.
- C. The following conditions shall apply to the Grantee's use of federal and state funds for SAP:
- (1) The Department will only pay for the actual costs of providing student assessment and group intervention services, which are defined as intervention services under Intervention Activity 71 (Assistance Programs).
 - (2) The Department will only pay for the actual costs of providing consultation services to school district personnel and core team members, which is defined as a prevention service under Prevention Activity 64 (Problem Identification & Referral).
 - (3) The Department will only pay for treatment services provided to students determined to be in need of treatment as a result of assessment and referral from SAP and placed into the appropriate levels of care utilizing the American Society of Addiction Medicine's Patient Placement Criteria, Second Edition for adolescents, which, along with any revisions thereto, is incorporated herein by reference.
 - (4) Allotted funds for assessment and group intervention services must be used only for school districts that have been trained under the Commonwealth's SAP model or a state approved private training provider.
- D. SDFSC funds shall be used for consultation, assessment and group intervention services prior to the use of other state and federal funds available in this Grant Agreement. SDFSC funds are to be budgeted and expended under Prevention Activity 64 (Problem Identification and Referral) and Intervention Activity 71 (Assistance Programs) of Appendix C and the Grantee's fiscal report. Although no SAPT Block Grant Prevention funds are specifically earmarked for SAP in this Grant Agreement, SAPT Block Grant Prevention funds may be utilized as a last resort for funding SAP consultation services to school district personnel and core team members under Prevention Activity 64 (Problem Identification & Referral).

- E. The Grantee shall ensure the identification of a drug and alcohol liaison to provide consultation services to all school districts and core team members within their catchment area. In addition, screening and referral as well as group intervention services for those students involved in SAP must be provided. The Grantee may provide elementary SAP (E-SAP) services within their area school districts, if desired. The Grantee may fund E-SAP services within its current funding allocation.
- F. The Grantee shall assure that all services linked to SAP Problem Identification and Referral service codes are entered into the Performance Based Prevention Software (PBPS) system. All staff entering SAP data into the PBPS system must receive appropriate PBPS training.
- G. The Grantee shall ensure that their identified drug and alcohol SAP liaison and their direct supervisor receive Core Team Member training provided by a Commonwealth-approved trainer.
- H. The Grantee's staff person primarily responsible for oversight of SAP services shall attend the one (1) day SAP Administrator Training.
- I. The Grantee shall ensure that Letters of Agreement are executed between each school district and the agency providing liaison services to the school district. The Grantee shall maintain copies of all Letters of Agreement at the Grantee's office.
- J. The Grantee shall annually monitor SAP liaison providers for adherence to contractual requirements utilizing component questions related to SAP from the Single County Authority (SCA) Provider Monitoring Tool.
- K. Statistical Report Forms must be submitted as prescribed by the Department and in accordance with the BDAP Report Schedule. The Grantee shall review the report to assure its accuracy so that the information reported only relates to students identified through the SAP process.

Early Intervention Services for HIV Disease

- (1) The Department will provide the Grantee with \$962,384 in Federal Substance Abuse Prevention and Treatment (SAPT) Block Grant drug treatment funds for each year of this Grant Agreement, identified and included within Appropriation 70-327 of Appendix C, Budget, to conduct a project to make HIV early intervention services available to individuals undergoing treatment for substance abuse, at the sites where the individuals are undergoing such treatment. The Grantee assures that its use of such funds shall be in compliance with 42 U.S.C. Section 300x et seq. and with the regulations promulgated thereunder and set forth at 45 CFR Part 96. All other SAPT funding requirements also continue to apply.
- (2) Services shall consist of client-centered HIV prevention counseling, HIV antibody testing, results counseling, provision of therapeutic and diagnostic measures, and linkage with health and social services. Funding provided for this program shall be used for the salary and operational expenses of personnel conducting HIV Early Intervention services to accomplish the HIV Early Intervention Performance Objectives.
- (3) HIV counseling and testing shall be provided to control the spread of infection. Counseling includes providing clients (substance abuse addicts) with information on ways to prevent HIV infection and transmission. Counseling and voluntary testing for evidence of HIV infection shall be provided to establish the presence of HIV disease in an individual, to determine the necessity for early intervention including medical treatment and support services, and to help determine the prevalence of HIV disease in drug treatment facilities. HIV positive clients shall be referred for primary medical and support services and offered Department assistance with voluntary confidential partner notification of sex and needle sharing partners.
- (4) The Grantee and any subcontractors of the Grantee shall ensure the following HIV Early Intervention services are provided to clients:

(a) HIV Prevention Counseling

All persons entering into the drug treatment facilities funded for HIV Early Intervention services shall receive client-centered HIV prevention counseling according to the “HIV Counseling, Testing and Referral Standards and Guidelines” (Standards and Guidelines) issued in May of 1994 by the Centers for Disease Control and Prevention (CDC). The protocols can be found in the Department’s HIV Counseling and Testing Report Form Manual (“Manual”) that the Department has provided to the Grantee. The Manual is incorporated herein by reference. The Grantee acknowledges having the Manual in its possession. The Department may, by written notice to the Grantee, modify or replace these Standards and Guidelines.

All counseling is to be done in person, in private, on a one-to-one basis.

Client risk reduction plans are developed with the client and documented in the HIV counseling and testing record.

(b) Testing

Voluntary, confidential testing of individuals shall be provided to confirm the presence of HIV antibodies, diagnose the extent of the deficiency in the immune system (CD4 and viral load), and provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease.

No blood or oral fluid specimen, for HIV antibody testing, shall be collected without first obtaining an informed, written consent from the client. The Department's consent form is included in the Manual and shall be used for this purpose.

Blood or oral fluid specimens, for HIV antibody testing, shall be collected on-site at the treatment facilities, unless an exception is granted by prior written Department authorization.

Blood and oral fluid specimens, for HIV antibody testing, shall be labeled with the identification number that appears on the HIV Counseling and Testing Report Form. The Grantee and subcontractors shall ensure that laboratory forms are completed according to procedures specified by the laboratory. The Department, by written notice to the Grantee, may change laboratories and any procedural instructions by which the subcontractor accesses the laboratory. The Grantee shall notify any subcontractors of changes.

All ELISA and Western Blot tests shall be performed by state contracted laboratories unless prior written Departmental approval is granted to use an alternative laboratory. The Department's written instructions to access such laboratory services shall be followed. Such instructions are found in the Manual.

(c) Results Counseling

No test result shall be revealed to the subject without individual, face-to-face results counseling as described in the Standards and Guidelines.

Positive test results counseling sessions shall include the participation of a state or local Health Department HIV Prevention Program staff member who will explain the need to inform sex and needle sharing partners and present options for voluntary confidential partner notification.

(d) Therapeutic and Diagnostic Intervention and Linkage

The programs participating in this project shall establish linkages with a comprehensive community resource network of related health and social service organizations to ensure

the availability of services and to facilitate referral. Referral sources for medical services, mental health, and case management services shall be documented in writing and kept on file.

Those persons who are sexually active shall be referred for or provided contraceptive information. In particular, women of childbearing age shall be referred to the most appropriate source to discuss reproductive health concerns.

All individuals with a positive HIV antibody test shall be given or referred for a complete medical history, a thorough physical exam, and appropriate laboratory testing. All persons who have positive tests for HIV antibodies shall be offered and counseled to accept a Mantoux tuberculin skin test. An HIV-positive person who has symptoms suggestive of tuberculosis, regardless of the results of the skin test, shall be referred immediately for medical evaluation.

Referrals shall be documented in the client's HIV counseling and testing record or medical chart.

- (5) The Grantee and subcontractors shall ensure that HIV testing services shall be undertaken voluntarily by, and with the informed, prior written consent of the individual. Undergoing such services shall not be required as a condition of receiving treatment services for substance abuse or any other services.

(6) Confidentiality

- (a) All client counseling and testing information obtained by the Grantee, subcontractors, and others shall be kept confidential. The Grantee shall, and shall ensure that any subcontractor shall, abide by the confidentiality requirements of 71 P.S. Section 1690.108, 42 U.S.C. Section 290dd-2, 42 C.F.R. Part 2, 4 Pa. Code Sections 255.5, 257.4 and the Confidentiality of HIV-Related Information Act, Act No. 1990-148, 35 P.S. Section 7601 et seq.
- (b) Counseling and testing records shall be stored in locked cabinets. Coded names, number sequences, and other methods, which assure confidentiality, shall be permitted.
- (c) HIV information from these records shall not be released without the specified prior written and informed consent of the client in accordance with the confidentiality requirements contained in Act No. 1990-148, 35 P.S. Section 7601 et seq.

(7) Reporting

- (a) The CDC HIV Counseling and Testing Report Form shall be completed on each client that receives one-on-one, HIV prevention counseling, and must follow the reporting procedures as presented in the Manual and as they may be further revised.

- (b) The Grantee shall complete and submit, to the Department, the quarterly HIV Early Intervention Report Form. These reports are due to the Bureau of Communicable Diseases, Division of HIV/AIDS on October 31, January 31, April 30 and July 31 of each year of the Grant Agreement.
- (8) All HIV counselors and medical staff funded for HIV Early Intervention services shall have training on providing basic, accurate information that is at the minimum, culturally, linguistically, and gender appropriate about HIV/AIDS infection and the causative agent, modes of transmission and prevention, and client-centered HIV prevention counseling.
- (9) All persons receiving treatment in drug treatment facilities funded for HIV Early Intervention services shall regularly receive HIV/AIDS information that they can comprehend, including translation, if necessary.
- (10) HIV Early Intervention Performance Objectives are as follows:
- (a) One hundred percent (100%) of the clients admitted to treatment at the substance abuse treatment programs receiving HIV Early Intervention services shall receive HIV/AIDS education.
- (b) Eighty-five percent (85%) of the clients admitted to treatment at the substance abuse treatment programs receiving HIV Early Intervention services shall receive one-on-one, client centered, HIV prevention counseling.
- (c) Ninety percent (90%) of the clients that receive HIV antibody testing shall receive their test results and results counseling.
- (d) State or local Health Department HIV Prevention Program staff shall be notified by the testing site of one hundred percent (100%) of the clients that test HIV antibody positive.
- (e) One hundred percent (100%) of clients who test HIV antibody positive and return for results counseling shall be provided or referred for early intervention services.

With respect to the provision of early intervention services for HIV disease to an individual, the Grantee shall ensure that the entities comply with the ADAMHA Reorganization Act of 1992, Pub. L. No. 102-321, 42 U.S.C. 201 note (“the Act”), and the regulations promulgated thereunder, 45 C.F.R. Part 96, particularly 45 C.F.R. 96.135 (“Restrictions on Expenditure of Grant”) and 96.137 (“Payment Schedule”). These requirements also appear at Federal Register 17061 *et seq.* (March 31, 1993).

The Grantee and any subcontractor shall not use any federal funds provided by this Agreement to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs.

COMMONWEALTH TRAVEL AND SUBSISTENCE RATES

The following rates established by the Department for its Contractors shall apply.

TRAVEL

The mileage allowance shall be 31 cents per mile (City of Philadelphia Travel Allowance) for the miles incurred by the Contractor's employees in driving their personal vehicle. Travel cost will only be allowed in the performance of this contract when a travel line item provides for such cost in the contract's budget.

LODGING

Lodging costs are limited to per diem rates per City of Philadelphia Travel Allowance.

SUBSISTENCE - OVERNIGHT TRAVEL

Reimbursement for meals and other subsistence expenses is an allowable per diem rate per City, allowable by the City of Philadelphia, for each 24 hour period spent in continuous overnight travel status. The 24 hour period begins at any time of day or night that the Contractor leaves headquarters or residence on official business.

NON-OVERNIGHT TRAVEL

No subsistence payments for non-overnight travel.

DOCUMENTATION

Itemized receipts for travel and subsistence must be on file to support reimbursement.