REQUEST FOR SEALED PROPOSAL

PHYSICAL THERAPY SERVICES

FOR THE PERIOD

JULY 1, 2013 THROUGH JUNE 30, 2014

AND

JULY 1, 2014 THROUGH JUNE 30, 2015

GALLIPOLIS DEVELOPMENTAL CENTER
2500 OHIO AVENUE
GALLIPOLIS, OHIO 45631
PHONE: 740-446-1642
FAX: 740-446-1341

Contracts subject to appropriation availability and approval of DODD and, if applicable, the Controlling Board, State of Ohio.

1.0 **INTRODUCTION**

1.1 Gallipolis Developmental Center intends to select an offeror through this Request for Proposal (RFP) process to provide Physical Therapist services for individuals who reside at Gallipolis Developmental Center.

1.2 This developmental center is a Medicaid-certified Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), operated by the Ohio Department of Developmental Disabilities (DODD), serving persons with intellectual disabilities and a wide range of other disabilities.

2.0 **SERVICES REQUIRED**

2.1 The services consist of all items listed herein for DODD, Gallipolis Developmental Center, including all required labor, materials and equipment (including items not specifically noted or shown as required for complete service, subject to any exclusions listed below). It is the intent of this document that vendors provide a single proposal covering all categories of work for this service.

2.2 Vendor providing services under this RFP will:

2.2.1 Be able to provide up to 20 hours of service per week, not to exceed 1040 hours per contract year, between 8:00 a.m. to 5:00 p.m., Monday through Friday. Flexible schedule can be arranged;

2.2.2 Responsible for timely and complete physical therapy evaluations and treatment plans on all consumers identified by the primary physician as having physical therapy needs;

2.2.3 Perform re-examination and documentation of progress with ongoing physical therapy and physical exercise programs;

2.2.4 Responsible for clinical oversight of physical therapy assistants and aides carrying out above programs;

2.2.5 Provide as needed evaluations and form completion for prescription items such as wheelchairs, walkers, and other adaptive equipment;

2.2.6 Maintain appropriate documentation in medical charts of consumers' visits and treatments. Co-signature of progress notes by ancillary staff is to be done as per Board Licensure requirements;

2.2.7 Comply with Medicaid documentation requirements that apply to ICF/IID facilities;

2.2.8 Confidentiality and full HIPPA compliance is required;

2.2.9 Make referrals for treatment that cannot be provided at the facility;

2.2.10 Make appropriate notation on Medicaid billing forms as required;

2.2.11 Possess and maintain current Ohio licensure as Licensed Physical Therapist;

2.2.12 Confer with primary physicians for any clinical concerns;

2.2.13 Be available to attend interdisciplinary team (IDT) meetings relating to affected consumers requiring services;

2.2.14 Professionally responsible to the Director of Nursing (DON) who may assign other duties;

2.2.15 Acts as a liaison for the facility between departments and/or agencies i.e. Medicaid, Ohio Department of Jobs and Family Services, and outside vendors.

2.2.16 Provide in-service training regarding therapy programs and lifting skills to consumers and staff.

2.2.17 The successful contractor(s) must invoice the developmental center within 30 days of service provision.

The contractor will designate an Administrator to be responsible for the direction of its contract responsibilities under this contract. This designee must be available by phone during reasonable business hours (Monday-Friday: 8:00 am - 4:30 pm) to discuss areas of concern with the developmental center medical director, or the medical director of ODMR/DD.

3.0 **SPECIAL CONSIDERATIONS**

3.1 The offeror shall identify the person(s) providing services under the RFP. Said person(s) must:

3.1.1 Have a current State of Ohio licensure as physical therapist per Sections 4755.42, 4755.43, and 4755.44 of Revised Code; 3 courses or 9 months experience in technical writing; 1 course or 3 months experience is small-group decision-making; 6 months training or 6 months experience in supervisory principles and techniques; 12 months experience as a licensed physical therapist providing range of services.

3.1.2 Offeror must have experience in the field of intellectual disabilities.

3.1.3 Be knowledgeable with Medicaid standards for Intermediate Care Facilities (ICF/IID) and must participate in the interdisciplinary team (IDT) process outlined by those standards.

3.1.4 Have not been found guilty of, or pleaded guilty to, any offense set forth in Section 5123.081(1), (2), or (3) of the Ohio Revised Code; nor employ any person to provide services under this RFP who has been found guilty of, or pleaded guilty to any offense set forth in Section 5123.081(1), (2), or (3) of the Ohio Revised Code. *The person(s) providing services under this RFP shall be subject to a criminal background check prior to performing any services at Gallipolis Developmental Center.*

3.2 The provisions of the ***Ohio Department of Developmental Disabilities Personal Service Contract*** will become part of the final agreement between the successful offeror and the Center. Therefore, the evaluation process resulting in the final award of a contract rests with the Center and the Ohio Department of Developmental Disabilities. The Center and the Ohio Department of Developmental Disabilities reserve the right to determine that the award of a contract would not be in the best interest of the Center, the Ohio Department of Developmental Disabilities, or the State of Ohio. The Center and the Ohio Department of Developmental Disabilities reserve the right to accept or reject any and all bids, in whole or in part, and may determine that any irregularities or deviations from the specifications do not result in the bid being non-responsive, provided this does not affect the amount of the bid or result in a competitive advantage to the bidder.

3.3 By submitting a signed proposal for this service, the vendor affirms that, as applicable to the vendor, no party listed in Division (I) and (J) of Section 3517.13 of the Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of $1,000.00 to the Governor or to his campaign committees.

3.4 All services provided under this RFP shall meet the appropriate standards of the Federal Medicaid program for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID).

3.5 Revised Code section 9.24 of the prohibits the award of any contract for goods, services, or construction, paid for in whole or in part with State funds, to a person against whom a finding for recovery has been issued by the Auditor of State, if the finding for recovery is unresolved. Paragraph (E) requires that a State agency or political subdivision verify that the person to whom the State agency or political subdivision plans to award the contract does not appear in the database to be maintained by the Auditor of State. In the response review process, the fact that there is a finding for recovery as defined in Revised Code 9.24 may be considered in the scoring process, and a response rejected for this reason alone.

3.6 The contractor agrees that it is a separate and independent enterprise from the state and from the Gallipolis Developmental Center and that it has a full opportunity to find other business and has made an investment in its business. Moreover, the contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the contractor's activities and responsibilities under the contract. The contract is not to be construed as creating any joint employment relationship between the contractor and the public agency or the state of Ohio.

3.7 Gallipolis Developmental Center reserves the right to reject, in whole or in part, any and all proposals where Gallipolis Developmental Center, taking into consideration factors including but not limited to, price and the results of the evaluation process, has determined that the award of a contract would not be in the best interests of Gallipolis Developmental Center or the State of Ohio.

4.0 DECLARATION REGUARDING MATERIAL ASSISTANCE/NONASSISTANCE (DMA)

4.1 Prior to entering into any contract to conduct business or provide funding, the state, any instrumentality of the state and any political subdivision of the state must obtain a DMA form pursuant to O.R.C. section 2909.33 (C), which states:

> Contracts subject to appropriation availability and approval of DODD and, if applicable, the Controlling Board, State of Ohio.

"Prior to entering into a contract to conduct business or receive funding, any person, company, affiliated group, or organization, and any person who holds, owns, or otherwise has a controlling interest in a company, affiliated group, or organization that conducts any business with or receives funding in an aggregate amount greater than one hundred thousand dollars annually from the state, any instrumentality of the state, and any political subdivision of the state, excluding the amount of any personal benefit, shall certify that it does not provide material assistance to any organization on the United States department of state terrorist exclusion list. The certification shall be made by completing the declaration of material assistance/nonassistance..."

Since the State of Ohio cannot determine the amount spent with political subdivisions of the State, we are required to obtain the DMA form from all vendors.

5.0 **PROPOSALS**

5.1 All proposals shall be in accordance with information provided in this document as well as an interview on site, if requested.

5.2 All proposals shall be in writing and signed by the person providing services (or in the case of companies by an authorized representative on company letterhead).

5.3 All proposals shall be submitted on the basis of a per hour charge. Travel expenses and travel time will not be paid. **A separate quotation shall be submitted for each fiscal year period.**

5.4 All proposals shall be guaranteed.

5.5 SEALED PROPOSALS WILL BE RECEIVIED BY:

Gallipolis Developmental Center
Attn: Operations Director
2500 Ohio Avenue
Gallipolis, Ohio 45631

Envelopes to be marked in lower left corner: **PHYSICAL THERAPY SERVICES.**

5.6 Deadline for Proposal:

Proposals will be received at the above address until **2:00 p.m. on April 19, 2013** and opened immediately thereafter. Proposals not received at Gallipolis Developmental Center by the deadline will be returned to sender unopened.

6.0 **SITE INTERVIEW**

6.1 As a representative of State Operated Services and Supports/DODD, Gallipolis Developmental Center reserves the right to interview all persons providing services under the provisions of this RFP to determine the best responsive vendor. Interviews will be after the proposal deadline and conducted on the premises of Gallipolis Developmental Center.

7.0 **SUBMISSIONS REQUIRED**

7.1 Complete and submit with your proposal a "Contractor Information" form (attached),

7.2 Complete and submit with your proposal a "Price/Compensation" form (attached),

7.3 Complete and submit with your proposal a IRS W-9 form (attached),

7.4 Complete and submit with your proposal a DMA form (attached),

7.5 Complete and submit with your proposal a statement of the ability to meet the minimum requirement qualifications,

7.6 Complete and submit with your proposal a statement of ability to perform the responsibilities listed above,

7.7 A copy of all pertinent current licenses,

7.8 List of previous services performed to include facility name, complete address, telephone number, contact person, and dates service was performed.

7.9 Any accommodation or special needs of any person providing services under the provisions of this RFP.

8.0 **SCHEDULE**

8.1 July 1, 2013 – June 30, 2014 (Fiscal Year 2014)

8.2 July 1, 2014 – June 30, 2015 (Fiscal Year 2015)

9.0 **PAYMENTS**

9.1 Payments for services are made thirty (30) days from the receipt of a proper invoice. A **proper itemized invoice** must be provided in accordance with the ORC section 125.01(B), which defines a proper invoice as being free from defects, errors, discrepancies, or other improprieties. It must include but may not be limited to:

9.1.1 Delivery of the commodity or performance of the service described in the order.

9.1.2 Date of the purchase or rendering of the service.

9.1.3 Itemization of the things done, material supplied, or labor furnished.

9.1.4 Sum due pursuant to the contract or obligation.

9.1.5 Vendor/provider name and address.

9.1.6 Buying agency name.

9.1.7 Proper invoice signed by the vendor.

10.0 EVALUATION CRITERIA

10.1 Scores will be given for each of the following items. The highest possible score is noted with each line item. The award will be given to the vendor with the highest score.

10.1.1 Person(s) to provide services are have a practicing licensed Physical Therapist as defined in Sections 4755.42, 4755.43, and 4755.44 of Revised Code in the State of Ohio, (Yes = continue to next criteria; No = proposal is rejected).

10.1.2 Experience serving person with intellectual disabilities (<6 years = 0; 6-9 years = 5 points; 10+ years = 10 points).

10.1.3 Experience providing service under ICF/IID standards (<3 years = 0; 3-5 years = 2; 6-9 years = 5; 10 + years = 10 points)

10.1.4 Experience serving Developmental Center Consumers (Yes = 20, No = 0)

10.1.5 Price. Rank highest to lowest order when compared to all proposals and multiplied: (1=5, 2=10, 3=15, 4=20, 5=25, etc.).

10.1.6 In the event of a tie, the award will be determined through the vendor interview process.

Attachments

Contractor Information
Vendor Information
W-9
Executive Order 2011-12K
Sample Contract (subject to revision)

Contracts subject to appropriation availability and approval of DODD and, if applicable, the Controlling Board, State of Ohio.

ATTACHMENTS

Contractor Information
Vendor Information
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CONCTACTOR INFORMATION

THIS FORM MUST BE SUBMITTED WITH YOUR PROPOSAL
(The pricing/Compensation form must be in a separately sealed envelope)

Vender Name: _____

Street Address: _____

City: _____ **State:** _____ **Zip Code:** _____

Phone Number: _____ **Fax Number:** _____

1. Number of contracts with the State of Ohio (including DODD). Specifically,

   State Agency: _____

   Contracted Services: _____

   Duration of Contract: _____

   Amount / Rate: _____

   (Attach additional sheets if necessary.)

2. Provide the following current information on both a corporate-wide basis (including Ohio) and, if a multi-state corporation, the corporation's Ohio based operations:

	Ohio Offices	**Nationwide (incl. Ohio Offices)**
Total Employee:	_____	_____
% Women:	_____	_____
% Minorities:	_____	_____

3. What is your **TAX IDENTIFICATION** number? _____

4. If your billing address is different from your mailing address please list below:

   Vender Name: _____

   Street Address: _____

   City: _____ **State:** _____ **Zip Code:** _____

   Phone Number: _____ **Fax Number:** _____

_____
Authorized Signature

_____
Date

Ohio Shared Services
Service First

Re: Potential State of Ohio Vendor Registration

Please complete the following forms in order to register as a vendor and do business with the State of Ohio.

Vendor Information Form (OBM-5657-Rev.11/1/2011) - Please complete the Vendor Information Form in order to assure an accurate, up-to-date record of company information. Please verify that all fields are complete and the form has been signed. Electronic signatures are not accepted at this time. Additionally, please verify that information contained on the W-9 form matches that provided on the Vendor Information Form. Specifically, legal business name, taxpayer ID # (TIN), and business type/business entity.

IRS Form W-9 Request for Taxpayer Identification Number & Certification - Enclosed is IRS Form W-9, revised January 2011. Please complete all applicable sections of the document including taxpayer type, a valid tax identification number, and your signature. Electronic signatures are not accepted at this time. The information you provide must match how you are registered with the IRS. Instructions for completing the form are enclosed. Should you require additional assistance in completing the W-9 form, please contact the IRS at 1-800-829-1040.

Authorization Agreement for Direct Deposit of EFT Payments (OBM-4310-Rev.11/1/2011) - The preferred method of payment for the State of Ohio is EFT (Electronic Funds Transfer); please complete the Authorization Agreement for Direct Deposit of EFT Payments and include a current voided check or bank letter. Instructions are provided with the Agreement form.

Send the completed forms to:

Vendor Maintenance
Ohio Shared Services
P.O. Box 182880
Columbus, Ohio 43218-2880

Fax: 614-485-1052
Email: vendor@ohio.gov

We appreciate your assistance in this matter. If you have any questions, please contact Ohio Shared Services at 1 (877) OHIO - SS1 (1-877-644-6771) or 1 (614) 338-4781 or via our contact page at http://www.ohiosharedservices.ohio.gov/ContactUs.aspx.

VENDOR INFORMATION FORM

All parts of the form must be completed by the vendor. Incomplete forms will be returned. The information must be legible. Ensure this is the latest version of the form at www.ohiosharedservices.ohio.gov.

SECTION 1 – PLEASE SPECIFY TYPE OF ACTION

☐ NEW (W-9 OR W-8ECI FORM ATTACHED) ☐ CHANGE OF CONTACT PERSON/INFORMATON

☐ ADDITIONAL ADDRESS – (A COPY OF AN INVOICE OR A LETTER INCLUDING THE ADDRESS IS REQUIRED)

☐ CHANGE OF ADDRESS – (PLEASE PROVIDE OLD ADDRESS BELOW OR ATTACH LETTER)

ADDRESS TO BE REPLACED:

☐ CHANGE OF TIN (W-9 & LETTER OF CLARIFICATION OF CHANGE, WHICH INCLUDES NEW & OLD TIN IS REQUIRED)

☐ CHANGE OF NAME (W-9 & LETTER OF CLARIFICATION OF CHANGE, MUST INCLUDES NEW & OLD NAME IS REQUIRED)

☐ CHANGE OF PAY TERMS ☐ CHANGE OF PO DISPATCH METHOD ☐ OTHER_____

SECTION 2 – PLEASE PROVIDE VENDOR INFORMATION

LEGAL BUSINESS OR INDIVIDUAL NAME: (MUST MATCH W-9 OR W-8ECI FORM)

BUSINESS NAME, TRADE NAME, DOING BUSINESS AS: (IF DIFFERENT THAN ABOVE)

FEDERAL EMPLOYER ID (EIN) OR SOCIAL SECURITY NUMBER (SSN):

SECTION 3 – PLEASE PROVIDE COMPLETE ADDRESS

ADDRESS:		COUNTY:
CITY:	STATE:	ZIP CODE:

SECTION 4 – ADDITIONAL ADDRESS (IF MORE THAN 2 ADDRESSES, PLEASE INCLUDE A SEPARATE SHEET)

ADDRESS:		COUNTY:
CITY:	STATE:	ZIP CODE:

SECTION 5 – CONTACT INFORMATION & PERSON TO RECEIVE PURCHASE ORDER		
NAME:		
WEBSITE:		
PHONE:	FAX:	EMAIL:
PREFERRED METHOD OF BEING CONTACTED: (CHECK ONE)	☐ PHONE	☐ EMAIL

SECTION 6 – INDIVIDUAL TO RECEIVE EMAIL NOTICE OF BID EVENTS - A USER ID & PASSWORD WILL BE SENT TO THE EMAIL ADDRESS BELOW	
NAME:	
EMAIL:	PHONE:
TO ADD AN ADDITITIONAL OR REPLACE A STRATEGIC SOURCING CONTACT PERSON ☐ ADDITIONAL CONTACT PERSON ☐ REPLACE CONTACT PERSON (WILL BE MARKED INACTIVE)	
NAME:	
EMAIL:	PHONE:

SECTION 7 – PAYMENT TERMS (PLEASE CHECK ONE – IF NONE IS SELECTED THEN NET 30 WILL APPLY)				
☐ 2/10 NET 30	☐ NET 30	☐ NET 45	☐ NET 60	☐ NET 90

SECTION 8 – PURCHASE ORDER DISTRIBUTION – OTHER THAN USPS MAIL
EMAIL OR FAX:

SECTION 9 – PLEASE SIGN & DATE	
PRINT NAME:	
SIGNATURE: (DIGITAL SIGNATURES NOT ACCEPTED AT THIS TIME; PRINT & SIGN)	DATE:

SECTION 10 – STATE OF OHIO AGENCY CONTACT PERSON (AGENCY RECEIVING PAYMENTS FROM)
AGENCY CONTACT NAME/EMAIL/PHONE:

COMMENTS:

Note: This document contains sensitive information. Sending via non-secure channels, including e-mail and fax can be a potential security risk.

SUBMIT FORM TO:	QUESTIONS? PLEASE CONTACT:
Mail: Ohio Shared Services Attn: Vendor Maintenance P.O. Box 182880 Cols., OH 43218-2880	**Phone:** 1 (877) OHIO - SS1 (1-877-644-6771) 1 (614) 338-4781
Email: vendor@ohio.gov	**Website:** www.ohiosharedservices.ohio.gov/
Fax: 1 (614) 485-1052	**Email:** vendor@ohio.gov

Form **W-9**
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See **Specific Instructions** on page 2.

Name (as shown on your income tax return)

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:
☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶

☐ Other (see instructions) ▶

☐ Exempt payee

Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
☐☐☐ - ☐☐ - ☐☐☐☐

Employer identification number
☐☐ - ☐☐☐☐☐☐☐

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here **Signature of U.S. person ▶** **Date ▶**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA) name" on the "Business name/disregarded entity name" line.

Disregarded entity. Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

Note. Check the appropriate box for the federal tax classification of the person whose name is entered on the "Name" line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/ disregarded entity name" line.

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/ disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),

2. The United States or any of its agencies or instrumentalities,

3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,

4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or

5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

7. A foreign central bank of issue,

8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,

9. A futures commission merchant registered with the Commodity Futures Trading Commission,

10. A real estate investment trust,

11. An entity registered at all times during the tax year under the Investment Company Act of 1940,

12. A common trust fund operated by a bank under section 584(a),

13. A financial institution,

14. A middleman known in the investment community as a nominee or custodian, or

15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over $600 required to be reported and direct sales over $5,000 [1]	Generally, exempt payees 1 through 7 [2]

[1] See Form 1099-MISC, Miscellaneous Income, and its instructions.

[2] However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at *www.ssa.gov*. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/businesses* and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: *A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.*

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

Signature requirements. Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account [1]
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor [2]
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee [1]
b. So-called trust account that is not a legal or valid trust under state law	The actual owner [1]
5. Sole proprietorship or disregarded entity owned by an individual	The owner [3]
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	**Give name and EIN of:**
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity [4]
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

[1] List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

[2] Circle the minor's name and furnish the minor's SSN.

[3] You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

[4] List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to *phishing@irs.gov*. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: *spam@uce.gov* or contact them at *www.ftc.gov/idtheft* or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

JOHN R. KASICH
GOVERNOR
STATE OF OHIO

Executive Order 2011-12K

Governing the Expenditure
of Public Funds for Offshore Services

WHEREAS, State of Ohio officials and employees must remain passionately focused on initiatives that will create and retain jobs in the United States in general and in Ohio in particular, and must do so especially during Ohio's continuing efforts to recover from the recent recession.

WHEREAS, allowing public funds to pay for services provided offshore has the potential to undermine economic development objectives in Ohio.

WHEREAS, the expenditure of public funds for services provided offshore may deprive Ohioans and other Americans of critical employment opportunities and may also undermine efforts to attract businesses to Ohio and retain them in Ohio, initiatives in which this State has invested heavily.

NOW THEREFORE, I, John R. Kasich, Governor of the State of Ohio, by virtue of the authority vested in me by the Constitution and the laws of this State, do hereby order and direct that:

1. No State Cabinet Agency, Board or Commission ("Executive Agency") shall enter into any contract which uses any public funds within its control to purchase services which will be provided outside the United States. This Executive Order applies to all purchases of services made directly by an Executive Agency and services provided by subcontractors of those providing services purchased by an Executive Agency.

2. This Executive Order will be personally provided, by the Director, Chair or other chief executive official of each Executive Agency, to the Chief Procurement Officer or other individual at that entity responsible for contracts for services.

3. The Department of Administrative Services, through Ohio's Chief Procurement Officer, shall have in place, by July 1, 2011, procedures to ensure all of the following:

    a. All agency procurements officers (APOs), or the person with equivalent duties at each Executive Agency, have standard language in all Executive Agency contracts which:

        i. Reflect this Order's prohibition on the purchase of offshore services.

ii. Require service providers or prospective service providers to:

1. Affirm that they understand and will abide by the requirements of this Order.
2. Disclose the location(s) where all services will be performed by any contractor or subcontractor.
3. Disclose the locations(s) where any state data associated with any of the services they are providing, or seek to provide, will be accessed, tested, maintained, backed-up or stored.
4. Disclose any shift in the location of any services being provided by the contractor or any subcontractor.
5. Disclose the principal location of business for the contactor and all subcontractors who are supplying services to the state under the proposed contracts.

b. All APOs confirm that all quotations, statements of work, and other such proposals for services affirm this Order's prohibition on the purchase of offshore services and include all of this Order's disclosure requirements.

i. Any such proposal for services lacking the affirmation and disclosure requirements of this Order will not be considered.
ii. Any such proposal where the performance of services is proposed to be provided at a location outside the United States by the contractor or any subcontractor will not be considered.

c. All procurement manuals, directive, policies, and procedures reflect the requirements of this Order.

d. All APOs have adequate training which addresses the terms of this Order.

4. Nothing in this Order is intended to contradict any state or federal law. In addition, this Order does not apply to:

a. Services necessary to support the efforts of the Department of Development to attract jobs and business to the state of Ohio;
b. Academic, instructional, educational, research or other services necessary to support the international missions of Ohio's public colleges and universities; or
c. Situations in which the Director of the Department of Administrative Services, or the Director's designee, shall determine that it is an emergency or that it is necessary for the State to waive some or all of the requirements of this Order. The Director shall establish standards by which Executive Agencies may request a waiver of some or all of the requirements of this Order and by which such requests will be evaluated and may be granted.

5. Executive Order 2010-09S is hereby rescinded.

I signed this Executive Order on June 21, 2011 in Columbus, Ohio and it will expire on my last day as Governor of Ohio unless rescinded before then.

John R. Kasich, Governor

ATTEST:

Jon Husted, Secretary of State

DEPARTMENT OF ADMINISTRATIVE SERVICES

STANDARD AFFIRMATION AND DISCLOSURE FORM

EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

All of the following provisions must be included in all invitations to bid, requests for proposals, state term schedules, multiple award contracts, requests for quotations, informal quotations and statements of work. This information is to be submitted as part of the response to any of the procurement methods listed.

CONTRACTOR/SUBCONTRACTOR AFFIRMATION AND DISCLOSURE:

By the signature affixed to this response, the Bidder/Offeror affirms, understands and will abide by the requirements of Executive Order 2011-12K. If awarded a contract, the Bidder/Offeror becomes the Contractor and affirms that both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States.

The Bidder/Offeror shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information as part of the response will deem the Bidder/Offeror not responsive and no further consideration will be given to the response. Bidder/Offeror's offering will not be considered. If the Bidder/Offeror will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

   _____ _____
   (Address) (City, State, Zip)

   Name/Principal location of business of subcontractor(s):

   _____ _____
   (Name) (Address, City, State, Zip)

   _____ _____
   (Name) (Address, City, State, Zip)

2. Location where services will be performed by Contractor:

   _____ _____
   (Address) (City, State, Zip)

   Name/Location where services will be performed by subcontractor(s):

   _____ _____
   (Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

(Address) (Address, City, State, Zip)

Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

4. Location where services to be performed will be changed or shifted by Contractor:

(Address) (Address, City, State, Zip)

Name/Location(s) where services will be changed or shifted to be performed by subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

Fund	Account	ALI	Department	Program	Grant	PO Number	CB and/or R&P Number (if applicable)

Ohio Department Developmental Disabilities

PERSONAL SERVICE CONTRACT

SECTION A. CONTRACT PARTIES

This contract is entered into between the Ohio Department Developmental Disabilities (Agency), on behalf of the following:

Name of Developmental Center, Office, or other Contracting Entity	Address (Street, City, State, Zip)

and

Contractor's Name	Address (Street, City, State, Zip)	OAKS Vendor Number

Type of Service Provided:

SECTION B. EFFECTIVE DATES

This contract is effective: _____through _____unless terminated prior thereto pursuant to Section G. Services shall not begin until Agency receives OBM approved Purchase Order.

SECTION C. COMPENSATION

1. The Contractor will be paid for the term of this contract as follows (check option a or b):

   a. Fee Schedule. Attach Fee Schedule to Contract or include Fee Schedule in Section D.1.a.

   b. ☐ Hourly Rate. Complete the information below

Fiscal Year	Rate per Hour	Maximum Hours Worked	Maximum Fiscal Year Contract Amount

Maximum Contract Amount for Biennium _____

Renewal Clause-Contract Extension. By mutual agreement of the parties, this Contract may be renewed for up to <u>an</u> additional two years.

2. Contractor shall not be reimbursed for travel, lodging or any other expenses incurred in the performance of this Contract.

3. Contractor shall submit a valid invoice on letterhead for the compensation incurred consistent with this Section, within twenty (20) days of the end of each month. Each invoice shall contain the following information:

   a. a description of the services performed;
   b. date of the services rendered;

c. a total for the invoice;
d. vendor's name and address; and
e. Department's name.

4. Agency shall pay Contractor within thirty (30) days of receipt and approval of the invoice.

5. This Contract does not guarantee a minimum amount of service. Services shall be performed on an as needed basis as directed by Agency.

SECTION D. DUTIES OF CONTRACTOR

1. Contractor shall:

   a. (Either list duties and associated fees OR type "See Request for Proposal and Response to Request")

   b. Contractor shall maintain all necessary licenses or registrations. Contractor shall perform all services with reasonable care, skill and diligence as would normally be provided by an experienced consultant and in accordance with industry standards.

   OR – (select either the paragraph above or below – which ever is most applicable then delete the other and this note)

   Contractor shall maintain all necessary licenses and registrations. All services shall be performed in accordance with: (1) generally accepted standards of care in the community and the quality criteria adopted by the Agency; (2) policies of the Agency; and (3) applicable rules and standards for the certification of an intermediate care facility for the mentally retarded.

   c. The contractor reports directly to (name and title of supervisor) _____who will verify the contract's time and service charged to this contract.

2. Contractor shall comply with all applicable statutes and all Agency rules including but not limited to the following specific duties and responsibilities:

   a. "Direct services position" means an employment position in which the employee has physical contract with, the opportunity to be alone with, or exercises supervision or control over one or more individuals.

   b. "Specialized services" means any program or service designed and operated to serve primarily individuals with mental retardation or a developmental disability, including a program or service provided by the Contractor. If there is a question as to whether the contractor or its employee is providing specialized services, the contractor shall request that the Department make a determination. The Department's determination is final.

   c. Background Check Requirements. If Contractor will be placing employees, including staff working through a temporary agency, in a Developmental Center to work in a direct services position for the provision of specialized services to the individuals residing in the Developmental Center, the Contractor will comply with the criminal background check requirements in Ohio Administrative Code 5123:2-3-06.

   d. Tuberculosis Testing

      (i) Habilitation staff and support staff employed on or after the effective date of this rule shall be tested for tuberculosis in accordance with this paragraph. The required tuberculosis test shall

include a two-step Mantoux tuberculin skin test administered by a person properly trained to administer tuberculin skin tests, or, if the person has a documented history of a significant Mantoux skin test, an x-ray. The person shall not work in the facility until after the results of the first skin test have been obtained and recorded in millimeters of in duration. If the first step is non-significant, a second step shall be performed at least seven, but not more than twenty-one, days after the first step was performed. Only a single Mantoux is required if the person has documentation of either a single-step Mantoux test or a two-step Mantoux test within one year of commencing work.

(ii) If either step of the Mantoux test is significant, the person shall have a chest x-ray and shall not enter the residential facility until after the results of the chest x-ray have been obtained and the person is determined to not have active pulmonary tuberculosis. Whenever a chest x-ray is required by this paragraph, a new chest x-ray need not be performed if the person has had a chest x-ray no more than thirty days before the date of the significant Mantoux test. Additional Mantoux testing is not required after one medically documented significant test. A subsequent chest x-ray is not required unless the person develops symptoms consistent with active tuberculosis.

(iii) For persons with a significant Mantoux test and the chest x-ray does not indicate active pulmonary tuberculosis, the facility shall require that the person be evaluated and considered for preventive therapy. Thereafter, the facility shall require the person to report promptly any symptoms of tuberculosis which include unexplained weight loss, loss of appetite, chronic cough of more than three weeks, fever, coughing, and spitting up blood and night sweats. The facility shall annually document the presence or absence of symptoms suggestive of tuberculosis in such a person and maintain this documentation on file.

(iv) After initial screening for tuberculosis required by this paragraph and annually thereafter within one year plus or minus thirty days of the previous year's date of screening, a tuberculosis screening for symptoms suggestive of active tuberculosis shall be conducted for all habilitation and support staff. This screening shall include, at a minimum, questions about the signs and symptoms of tuberculosis as indicated in paragraph (B)(6)(b) of this rule. The frequency of any additional Mantoux skin test screenings or the need for a physician evaluation shall be dependent upon this assessment. [5123:2-3-07(B)(6)(a-c)].

e. Personnel Records. Personnel records shall be maintained for each employee in accordance with the contractor's personnel policies. [5123:2-3-07(D)].

f. Professional Staff Credentials. Professional program staff must be licensed, certified, or registered, as applicable by the state, to provide professional services in the field in which they practice. [5123:2-3-07(B)(7)].

g. First Aid and CPR Training. The Contractor shall ensure that designated staff receive training in first aid and CPR to comply with the requirements established in rule 5123:2-3-07("Employment and Staffing") of the Administrative Code. [5123:2-3-08(B)(5)].

h. Compliance with Laws. Upon request, Contractor shall provide the Developmental Center with a copy of any report or abstract obtained under Ohio

Administrative Code 5123:2-3-06, 5123:2-3-07(D), 5123:2-3-07(B)(7), 5123:2-3-07(B)(6)(a-c), 5123:2-3-08(B)(5).

SECTION E. NATURE OF CONTRACT

1. Agency enters into this Contract in reliance upon Contractor's representations that it has the necessary expertise and experience to perform its obligations hereunder, and Contractor warrants that it does possess the necessary expertise and experience. It is specifically understood that the nature of the services to be rendered under this Contract are of such a personal nature that Agency is the sole judge of the adequacy of such services. Agency thus reserves the right to terminate this Contract should Agency at any time be dissatisfied with Contractor's performance of its duties under this Contract.

2. In the event of a termination of this Contract by Agency, Contractor shall be reimbursed in accordance with Section G., Termination of Contractor's Services.

3. Agency may, from time to time, communicate specific instructions and requests to Contractor concerning the performance of the work described in this Contract. Upon such notice, Contractor shall comply with such instructions and fulfill such requests to Agency's satisfaction. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of the work described in this Contract. The management of the work, including the exclusive right to control or direct the manner or means by which the work is performed, remains with the Contractor. Agency retains the right to ensure that Contractor's work is in conformity with the terms and conditions of this Contract.

SECTION F. CERTIFICATION OF FUNDS

It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Contract shall be binding on either party until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to, O.R.C. Section 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that Agency gives Contractor written notice that such funds have been made available to Agency by Agency's funding source.

SECTION G. TERMINATION OF CONTRACT

1. Agency may, at any time prior to the completion of services by Contractor under this Contract, suspend or terminate this Contract with or without cause by giving five (5) days written notice to Contractor.

2. Contractor, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this Contract, take all necessary or appropriate steps to limit disbursements and minimize costs, and, if requested by Agency, furnish a report, as of the date of receipt of notice of suspension or termination, describing the status of all work under this Contract, including, without limitation, results, conclusions resulting therefrom, and any other matters Agency requires.

3. Contractor shall be paid for services rendered up to the date Contractor received notice of suspension or termination, less any payments previously made, provided Contractor has supported such payments with invoices as required under Section C. In the event of suspension or termination, any payments made by Agency for which Contractor has not rendered services shall be refunded.

4. In the event this Contract is terminated prior to its completion, Contractor, upon payment as specified, shall deliver to Agency all work products and documents which have been prepared by Contractor in the course of providing services under this Contract. All such materials shall become and remain the property of Agency, to be used in such manner and for such purpose as Agency may choose.

5. Contractor agrees to waive any right to, and shall make no claim for, additional compensation against Agency by reason of such suspension or termination.

6. Contractor may terminate this Contract with or without cause upon thirty (30) days prior written notice to Agency.

SECTION H. INDEPENDENT CONTRACTOR

1. No relationship of employer and employee is created by this contract. Contractor will act hereunder as an independent contractor with no claim under this Contract or otherwise against Agency or the State of Ohio for business expenses, travel expenses, vacation pay, sick pay, retirement benefits, workers compensation, or disability or unemployment insurance benefits or employee benefits of any kind. Contractor is not eligible to participate in any employee benefit or retirement plans offered by Agency or the State or Ohio. Agency shall withhold no payroll or employment taxes of any kind.

2. Contractor is solely responsible for all of Contractor's business expenses, including the payment or withholding of all federal, state and local income taxes, workers compensation insurance, social security and unemployment insurance, and the payment of wages and salaries, travel expenses, insurance of every kind, and health and retirement plans. Contractor shall indemnify and hold Agency harmless from and against any and all claims, demands, liabilities, losses, damages and expenses resulting in any manner from any act or omission of Contractor or its employees related to its obligation to pay and withhold income tax, social security, unemployment insurance and to maintain worker's compensation insurance.

3. Nothing herein shall be construed to imply, by reason of Contractor's engagement hereunder on an independent contractor basis, that Agency shall have or may exercise any right of control over Contractor with regard to the manner or method of Contractor's performance of services hereunder.

4. Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.

SECTION I. RECORD KEEPING

1. Until the expiration of six (6) years after the termination of this Contract, Contractor will, upon proper request, allow the Comptroller General of the United States, the U.S. Department of Health and Human Services, the State of Ohio, the Ohio Medicaid Fraud Control Unit and the Ohio Department of Job and Family Services and their duly-authorized representatives access to Contractor's books, documents and records necessary to certify the nature and extent of costs of reimbursable services provided under this Contract. For each subcontract in excess of $10,000, the Contractor shall require the subcontractor to agree to these record keeping provisions. If Contractor is requested to disclose any books, documents or records relevant to their Contract for the purpose of an audit or investigation by any government agency, Contractor shall immediately notify Agency of the nature and scope of the request and shall make available to Agency all books, documents and records relevant to the request.

2. All provisions under this section survive the expiration or termination of this Contract.

SECTION J. CONFLICTS OF INTEREST, ETHICS, AND LEGAL COMPLIANCE

1. No personnel of Contractor or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this Contract is being carried out, and who exercise any functions or responsibilities in connection with the review or approval of this Contract or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

2. Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Contract, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to Agency in writing. Thereafter, he or she shall not participate in any action affecting the work under this Contract, unless Agency shall determine in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

3. Contractor represents, warrants, and certifies that it and its employees engaged in the administration or performance of this Contract are knowledgeable of and understand the Ohio Ethics and Conflicts of Interest laws and Executive Order No. 2011-03K. Contractor further represents, warrants, and certifies that neither Contractor nor any of its employees will do any act that is inconsistent with such laws and Executive Order.

4. Contractor represents and warrants that all applicable parties listed in Division (I)(3) or (J)(3) of O.R.C. Section 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of O.R.C. Section 3517.13.

5. Contractor represents and warrants that it is not subject to an "unresolved" finding for recovery under O.R.C. Section 9.24. If this warranty is found to be false, this Contract is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Contract.

6. Contractor represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either O.R.C. Section 153.02 or O.R.C. Section 125.25. If this representation and warranty is found to be false, this Contract is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Contract.

7. Contractor hereby represents and warrants to Agency that it has not provided any material assistance, as that term is defined in O.R.C. Section 2909.33(C), to any organization identified by and included on the United States Department of State Terrorist Exclusion List and that it has truthfully answered "no" to every question on the "Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization." Contractor further represents and warrants that it has provided or will provide such Declaration to Agency prior to execution of this Contract. If these representations and warranties are found to be false, this Contract is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Contract.

8. Contractor represents and warrants that neither it nor any of its employees or agents are excluded from participation under any Federal health care program, as defined under 42 U.S.C. Section 1320a-7b(D), for the provision of items or services for which payment may be made under a Federal health care program; Contractor has not arranged or contracted (by employment or otherwise) with any employee, contractor or agent that Contractor knows is excluded from participation in any Federal health care program, and no final adverse action, as defined under 42 USC Section 1320a-7e(g) has occurred or is pending against Contractor or to its knowledge against any employee contractor or agent engaged to provide items or services under this Contract (collectively, "Exclusions/Adverse Actions"). Contractor shall notify Agency of any

Exclusions/Adverse Actions within five (5) business days of its learning of such Exclusions/Adverse Actions.

9. Contractor shall comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

10. Contractor warrants that it has not entered into, nor shall it enter into, other Contracts, without prior written approval of Agency, to perform substantially identical work for the State of Ohio such that the product contemplated hereunder duplicates the work called for by the other Contracts.

11. Contractor represents and warrants that neither it nor any of its employees or agents has been convicted of any offense set forth in Section 5123.081(E) of the Ohio Revised Code.

12. Contractor affirms that neither it nor any of its employees or agents is presently holding a civil service position with the State of Ohio. The Contractor (if an individual) declines a civil service position for the reason(s) identified below.

☐ contractor is not an individual
☐ not interested in benefits
☐ not interested in civil service appointment
☐ compensation and benefits is inadequate
☐ other

SECTION K. NONDISCRIMINATION

1. Pursuant to O.R.C. Section 125.111, Contractor agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, age, national origin, veteran status, or disability against any citizen of this state in the employment of any person qualified and available to perform the work under this Contract.

2. Contractor further agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Contract on account of race, color, religion, sex, age, national origin, veteran status or disability.

3. Pursuant to Ohio Revised Code Section 125.111, Contractor shall maintain a written affirmative action program for the employment and effective utilization of economically disadvantaged persons and shall file a description of the affirmative action program and a progress report on its implementation with the equal employment opportunity office of the Department of Administrative Services.

4. Contractor shall not discriminate in the provision of services on account of race, color, religion, sex, age, natural origin, veteran status or disability.

SECTION L. LIABILITY

1. Contractor agrees to indemnify and to hold Agency and the State of Ohio harmless and immune from any and all claims, costs and liabilities for injury or damages arising from this Contract which are attributable to Contractor's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third parties utilized by Contractor, or joint venturers while acting under this Contract. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal

or state law involving wages, overtime, or employment matters and any claims involving patents, copyrights, and trademarks.

OR – (select either the paragraph above or below – then delete the other and this note; use the paragraph below if contracting with another public agency, use the paragraph above for all other contracts)

1. Each party shall accept and be responsible for its own acts or omissions, as well as those of its employees discharging its obligations under this Agreement. Nothing in this Agreement shall be interpreted or construed to place any responsibility for acts or omissions of one party or its employees onto the other party.

2. In no event shall either party be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits.

3. Contractor shall purchase and maintain comprehensive general and professional liability insurance each in the minimum amount of $1,000,000 per occurrence. Upon request, Contractor shall furnish Agency with a certificate of coverage.

SECTION M. COMPLIANCE WITH LAWS

1. Contractor, in the execution of duties and obligations under this Contract, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.

2. a. The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract, and shall perform no services required under this Contract outside of the United States. The Executive Order is provided as an attachment.

   b. The Contractor also affirms, understands, and agrees to immediately notify Agency of any change or shift in the location(s) of services performed by the Contractor or its subcontractors under this Contract, and no services shall be changed or shifted to a location(s) that are outside of the United States.

   c. The Agency is not obligated and shall not pay for any services provided under this Contract that the Contractor or any of its subcontractors performed outside of the United States. If services are performed outside of the United States, this will be treated as a material breach of the Contract, and Contractor shall immediately return to the Agency all funds paid for those services. In addition, if the Contractor or any of its subcontractors perform any such services outside of the United States, the Agency may, at any time after the breach, terminate this Contract for such breach, upon written notice to the Contractor. If the Agency terminates the Contract, the Agency may buy substitute services from a third party, and the Agency may recover the additional costs associated with acquiring the substitute services.

   d. If the Contractor or any of its subcontractors prepares to perform services, changes or shifts the location(s) of services performed by the Contractor or its subcontractors under this Contract to a location(s) outside of the United States, but no services are actually performed, the Contractor has 30 days to change or shift the location(s) of services performed to location(s) within the United States. The Agency may recover liquidated damages in the amount of 5% of the value of the contract for every day past the time permitted to change or shift the location(s).

SECTION N. CONFIDENTIALITY

1. Contractor agrees that all data, reports and information received from Agency shall be used only for the services to be provided under this Contract. Contractor agrees that

all discussions with Agency personnel and all reports prepared by Contractor are confidential. Contractor agrees to maintain the confidentiality of all such information and will not release such information without the prior written authorization of Agency.

2. Contractor ☐ IS or ☐ IS NOT a "business associate" pursuant to the definition under the Health Insurance Portability and Accountability Act (HIPAA) and the regulations promulgated thereunder specifically 45CFR160.03. If Contractor is a business associate then Contractor shall comply with Addendum A.

3. All provisions under this section survive the expiration or termination of this Contract.

SECTION O. ENTIRE CONTRACT/WAIVER

1. This Contract contains the entire Contract between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto.

2. This Contract supersedes any and all previous Contracts, whether written or oral, between the parties.

3. A waiver by any party of any breach or default by the other party under this Contract shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

SECTION P. NOTICES

All notices, consents, and communications hereunder shall be given in writing, shall be deemed to be given upon mailing and shall be sent to the addresses set forth below:

[Name] DODD [Title] [Address]	[Name] [Contractor Name] [Title] [Address]

SECTION Q. SEVERABILITY

The provisions of this Contract are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.

SECTION R. CONTROLLING LAW

This Contract and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Contract and/or performance thereunder.

SECTION S. SUCCESSORS AND ASSIGNS

Neither this Contract nor any rights, duties or obligations hereunder may be assigned or transferred in whole or in part by Contractor, without the prior written consent of Agency.

SECTION T. ACCESS TO PREMISES

Contractor acknowledges that all packages and bags brought into or taken from Agency premises may be subject to inspection by security, supervisory and management personnel. Video surveillance may also be used to assist in the protection of individuals, staff and property.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized officers, as of the day and year first written above.

[Name]
Ohio Department of Developmental Disabilities
Director

By:_____

Date:_____

[Name]
[Contractor Name]
[Title]

By:_____

Date:_____

[Name]
Ohio Department of Developmental Disabilities
Deputy Director

By:_____

Date:_____

[Name]
Ohio Department of Developmental Disabilities
Superintendent (if applicable)

By:_____

Date:_____

ADDENDUM A
Business Associate Addendum

This Business Associate Addendum (the "Addendum") is entered into by and between the Ohio Department of Developmental Disabilities ("Agency") and Contractor.

Whereas, Agency and Contractor are parties to an agreement entered into contemporaneously herewith ("Underlying Agreement"); and

Whereas, Agency, pursuant to the Underlying Agreement, provides Contractor with certain individually identifiable protected health information that is necessary for Contractor to perform the services called for in the Underlying Agreement and is subject to protection under the Health Insurance Portability and Accountability Act of 1996("HIPAA") and the Standards for Privacy of Individually Identifiable Health Information and Security Standards for the Protection of Electronic Protected Health Information, 45 C.F.R. Part 160 and Part 164 ("Rules"); and Subtitle D of the Hitech Act, American Recovery and Reinvestment Act of 2009; and

Whereas, the parties purpose for entering into this Addendum is to comply with the requirements of applicable laws and regulations, including but not limited to HIPAA, Hitech, and the Rules.

NOW, THEREFORE, in consideration of the forgoing and the promises and mutual covenants contained herein, the parties agree as follows:

1. Definitions. Unless otherwise provided in this Addendum, capitalized terms shall have the same meaning as set forth in the Rules.

2. Duties and Responsibilities of Contractor:

   A. Contractor acknowledges and agrees that all protected health information (the "PHI"), as defined by the Rules, provided to Contractor by Agency is confidential and the property of Agency without regard to medium of storage or method of transmission of such information. Contractor agrees to keep all PHI confidential.

   B. Except as otherwise limited in this Addendum, Contractor may use or disclose PHI necessary to perform functions, activities, or services for, or on behalf of, Agency as specified in the Underlying Agreement or for the proper management and administration of Contractor, provided that such use or disclosure would not violate the Rules if done by Agency.

   C. Contractor agrees to take reasonable steps necessary to protect the security and confidentiality of PHI so as to enable Agency to comply with HIPAA, Hitech, the Rules and other laws relating to the privacy and security of PHI, which are now in force or which may hereafter be in force, including, without limitation, the following actions:

      (1.) use or disclose PHI only as permitted or required by the Underlying Agreement and this Addendum, or as Required by Law; and

      (2.) use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by the Underlying Agreement and this Addendum; and

      (3.) implement reasonable processes to detect unauthorized disclosures of PHI and train its work force regarding these processes; and

(4.) to the extent practicable, mitigate any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of the Underlying Agreement or this Addendum; and

(5.) promptly and in no case later than 10 days after discovery, report in writing to Agency any use or disclosure of the PHI not provided for by the Underlying Agreement or this Addendum, of which Contractor becomes aware. Contractor shall provide such other available information to Agency to enable it to notify individuals as required by Hitech; and

(6.) require any contractors or agents, including subcontractors, to whom Contractor provides PHI received from, or created or received by Contractor on behalf of Agency, to agree to the same restrictions and conditions that apply to Contractor pursuant to this Addendum; and

(7.) make its internal practices (including policies and procedures), books, and records relating to the use and disclosure of PHI received from, or created or received by Contractor on behalf of Agency, available to the Secretary of the Department of Health and Human Services (the "Secretary") for purposes of determining Covered Entities compliance with the Rules. Contractor shall provide Agency with a copy of any PHI that Contractor provides to the Secretary concurrently with providing such PHI to the Secretary; and

(8.) within fifteen (15) days of receiving a written request from Agency, provide to Agency the information necessary for the Agency to make an accounting of disclosures of PHI about an Individual as necessary for Agency to comply with 45 C.F.R. 164.528; and

(9.) make available information necessary for Agency to respond to an Individual's request for access to PHI about them as is necessary for Agency to comply with 45 C.F.R. 164.524. Such information shall be made available within ten (10) ten days of receiving a written request from Agency for such information. In the event an Individual contacts Contractor, or its agents or subcontractors, directly requesting access to PHI, Contractor will not grant access to PHI but will notify Agency in writing within five (5) business days of such contact; and

(10.) within fifteen (15) days of receiving a written request from Agency, incorporate any amendments or corrections to PHI as necessary for Agency to comply with 45 C.F.R. 164.526. In the event an Individual contacts Contractor, or its agents or subcontractors, directly about making amendment to PHI, Contractor will not make any amendments to PHI but will notify Agency in writing within five (5) business days of such contact.

3. Security Rule Provisions. Contractor agrees to the following additional obligations in order that Agency may meet its obligations under HIPAA Security Rule, 45 C.F.R. Part 164, Subpart C, with respect to electronic PHI:

A. Contractor will employ appropriate administrative, technical, and physical safe guards to protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of Agency.

B. Contractor will Report to Agency any Security Incident of which it becomes aware.

C. Contractor will ensure that any agent, including a subcontractor, to whom it provides such electronic PHI agrees to implement reasonable and appropriate safeguards to protect it.

4. Breach of Unsecured PHI. If Contractor discovers any Breach of Unsecured PHI (as the terms "Breach" and Unsecured" PHI" or "Unsecured Protected Health Information" are defined in 45 C.F. R. 164.402) that it accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses on behalf of Agency, then in accordance with 45 C.F.R. §164.410, Contractor shall notify Agency of such Breach in writing without unreasonable delay and in no event later than ten (10) days

after discovery of such Breach, which written notice shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during such Breach. In addition, Contractor shall provide Agency with the following information, to the extent available at the time initial notice to Agency is provided, or promptly thereafter as such information becomes available:

A. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach.

B. A description of the type of PHI that was involved (e.g., name, Social Security Number, procedure, diagnosis, treatment, etc.).

C. A brief description of the steps that Contractor is taking to investigate, mitigate harm, and protect against further Breaches.

5. Termination. Agency may immediately terminate the Underlying Agreement, including this Addendum, by giving Contractor written notice of termination, if Agency determines that Contractor has violated a material term of this Addendum. Alternatively, Agency may in its sole discretion provide an opportunity for Contractor to cure the breach and end the violation. If Contractor fails to cure the breach to the satisfaction of Agency, the Agency may immediately thereafter terminate the Underlying Agreement. Termination of the Underlying Agreement shall result in the termination of this Addendum.

   Contractor agrees that upon termination of the Underlying Agreement, it will return or destroy all PHI received from, or created or received on behalf of Agency, that Contractor still maintains in any form and retain no copies of such information. This provision shall apply to PHI that is in the possession of Contractor and any subcontractors or agents of Contractor. In the event that returning or destroying the PHI is infeasible, as determined by Agency, Contractor agrees to extend the protections of the Underlying Agreement and this Addendum to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such PHI.

6. Amendment. It is the intent of the parties that the Underlying Agreement and this Addendum comply with the requirements of HIPAA, Hitech, and the Rules. Any ambiguity in the Underlying Agreement or this Addendum shall be resolved to permit Agency to comply with HIPAA and the Rules. If necessary, the parties agree to use good faith efforts to amend the Underlying Agreement and this Addendum from time to time as is necessary for Agency to be in compliance with HIPAA and regulations promulgated thereunder.

7. Survival. The obligations of the Contractor under this Addendum shall survive the expiration or termination of the Underlying Agreement and this Addendum.

8. No Third Party Beneficiaries. Nothing express or implied in this Addendum is intended to confer, nor shall confer, upon any person other than the parties, and their permitted successors and assigns if any, rights, remedies, obligations or liabilities whatsoever.

9. Miscellaneous: As amended by this Addendum, the Underlying Agreement and all its terms and conditions shall remain in full force and effect.

ADDENDUM

For Contract Employees who are Direct Service Employees

1. Contractor shall ensure that employees placed in a direct services position shall be at least 18 years of age.

2. Contractor shall ensure that employees prior to being placed in a direct services position receive training on major unusual incidents as required by Ohio Administrative Code 5123:2-3-08. Contractor shall ensure that its employees receive this training annually.

3. Contractor shall ensure that employees prior to being placed in a direct services position receive annual written notice explaining conduct for which an employee may be included in the Registry established by R. C. 5123.25. Contractor shall provide this training annually.

4. Contractor shall ensure that employees prior to being placed in a direct services position receive individuals rights training required by OAC 5123:2-3-08. Contractor shall ensure that this training is provided annually to all employees in a direct service position.

5. Contractor, if providing transportation, shall provide a copy of the vehicle insurance policy and have its employees, prior to being placed in direct services position provide a certified copy of abstract from the Ohio Bureau of Motor Vehicles.

6. Agency has the authority to require employees of Contractor prior to being placed in a direct service position and after placement in a direct service position to undergo agency specific training.