# ATTACHMENT D

Except upon the approval of DHS, the terms and conditions set out in this section are non-negotiable items and will be transferred to the contract as written. DHS has determined that any attempt by any vendor to reserve the right to alter or amend the terms and conditions via negotiation, without the approval of DHS, is an exception to the terms and conditions that will result in rejection of the proposal. A statement accepting and agreeing to the terms and conditions set out in this section, or to alternate terms and conditions upon approval of DHS, is required to be submitted with the respondent's proposal.

## PROFESSIONAL SERVICES CONTRACT
## GENERAL TERMS AND CONDITIONS FOR NON-STATE AGENCY

**In consideration of the premises and the mutual agreements hereinafter set forth, the Contractor and the Department of Human Services ("the Department") agree as follows:**

**Legal Considerations**
**The contract shall be construed according to the laws of the State of Arkansas, and the rights and remedies of the parties hereunder shall be determined in accordance with Arkansas law. Nothing in this contract may be construed as a waiver of the Department's sovereign immunity.**

**In no event shall the initial term of this contract extend beyond the end of the current biennial period unless the General Assembly, prior to the expiration of the biennial period, makes an appropriation for such purpose.**

**Financial Terms of the Contract**
**All services rendered under this contract must be billed as set out herein. No services may be billed to a Medicaid Provider or to any other contract. Payments will be made after services are provided based on the following financial terms:**

| Funding Source | Reimbursement Method * | Payment Limitations ** | Match Requirements*** | |
|---|---|---|---|---|
| | | | Maximum Amount of Match Required OR Percentage of Allowable Billing Required | Type(s) of Match (Select from listing below) |
| | | | | |
| | | | | |
| | | | | |

***Reimbursement Method: (Select from the following) Actual Cost Reimbursement; Final Negotiated Rate; Fixed Rate; Scheduled Reimbursement **Payment Limitations: (Select from the following) Quarterly Cumulative; Monthly Cumulative; None ***Matching Requirements: The Contractor certifies the funds, property, goods, or services listed in this section will be used to meet the match requirements of this agreement. If there are no matching requirements for a funding source, enter "None" in the corresponding box above.**
**Type(s) of Match: The matching requirement may be satisfied by any one or a combination of the following methods unless specific funding source restrictions apply:**
**Cash Match: Cash will be obtained by the Contractor and will be applied against allowable costs**

**covered by this agreement.**
**Donation of Property: Title to or the use of property or equipment has been donated by a public agency for the program(s) covered by this agreement. If title to property is donated, match value is the fair market value of the property. If the use of the property or equipment is donated, match value is the fair rental value as determined by applicable Department policy will be used as matching of the payments.**
**Third Party In-Kind Contributions. Property, goods, or services have been donated by a non-federal agency for the programs(s) covered by this agreement without charge to the contractor. The Code of Federal Regulations, Title 45, Part 74, Subpart G shall be used to establish the basis of valuation.**
**Funds Transfer: Match funds will be submitted by a third party to the Department of Human Services by check or money order under the terms of this agreement. Matching funds are to be received by the Department in an amount sufficient to match billing before the contractor will be reimbursed for services.**

**The Contractor certifies that any funds to be donated under this agreement which are derived or come directly or indirectly from Federal or State funds, or any other contractor under contract to the Department, have been specifically listed as a source above.**

**The Contractor certifies that the matching arrangements comply with requirements established in the Code of Federal Regulations, Title 45, Part 74, Subpart G (Cost Sharing or Matching) and all applicable Department policy.**

**Terms of Payment/Billing**
**The Contractor agrees to submit all billing invoices within sixty days of the expiration of the contract. Any billings for services rendered during a particular state fiscal year which are not submitted within ninety days of the end of the fiscal year will not be paid.**

**Termination of Contract**
**The Department may cancel this contract unilaterally at any time, for any reason including convenience, unavailability of federal funds, state funds or both by giving the other party thirty (30) calendar days written notice, and delivering notice of cancellation either in person or by certified mail, return receipt requested, restricted delivery. Availability of funds will be determined at the sole discretion of the Department.**

**Payments for completed services or deliverables satisfactorily delivered to and approved by the Department shall be at the contract price. Payment for partially completed services or deliverables satisfactorily delivered to and not yet approved by the Department shall be at a price mutually agreed upon by the Contractor and the Department. In addition to any other law, rule or provision which may authorize complete or partial contract termination, the Department may immediately terminate this contract in whole or in part when the Department determines that the Contractor or subcontractor has failed to satisfactorily perform its contractual duties and responsibilities.**

**Procedure on Expiration or Termination**
**Upon delivery by certified mail to the Contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the Contractor shall:**

- **Stop work under the contract on the date and to the extent specified in the Notice of Termination,**
- **Place no further orders or enter in any additional subcontracts for services,**
- **Terminate all orders and subcontracts to the extent that they relate to the performance of work**

**terminated by the Notice of Termination,**

- **Assign to the Department in the manner and to the extent directed by the Department representative all of the right, title and interest of the Contractor in the orders or subcontracts so terminated. The Department shall have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such orders and subcontracts,**
- **With the approval or ratification of the Department representative, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole or part, in accordance with the provisions of this Contract.**
- **Transfer title to the Department and deliver in the manner, at the time, and extent directed by the Department representative, all files, data, information, manuals, or other documentation, or property, in any form whatsoever, that relate to the work terminated by the Notice of Termination.**
- **Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.**
- **Take such action as may be necessary, or as the Department representative may direct, for the protection and preservation of the property related to the contract which is in the possession of the Contractor and in which the Department has or may acquire an interest.**

**The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item or reimbursable price under this clause.**

**Termination Claims**
**After receipt of a Notice of Termination, the Contractor shall submit to the Department all outstanding claims within ten (10) working days. The Contractor and the Department may agree upon the amounts to be paid to the Contractor by reason of the total or partial termination of work as described in this section.**

**In the event of the failure of the Contractor and the Department to agree in whole or in part as to the amount with respect to costs to be paid to the Contractor in connection with the total or partial termination of work as described in this section, the Department shall determine, on the basis of information available, the amount, if any, due to the Contractor by reason of termination and shall pay to the Contractor the amount so determined.**

**Contractor**
**It is expressly agreed that the Contractor, officers, and employees of the Contractor or Sub-Contractor in the performance of this contract shall act in an independent capacity and not as officers or employees of the Department. It is further expressly agreed that the Department shall exercise no managerial responsibility over the Contractor nor shall this contract be construed as a partnership or joint venture between the Contractor or any subcontractor and the Department or the State of Arkansas.**

**The Contractor hereby represents and warrants to the Department that as of the execution date of this Contract:**

- **The Contractor has been duly organized and is validly existing and in good standing under the laws of the State of Arkansas, with power, authority, and legal right to enter into this Contract.**
- **There are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the Contractor or its properties (i) seeking to prevent the consummation of any of the transactions contemplated by this Contract; or (ii) seeking any determination or ruling that might materially and adversely affect the performance by the Contractor of**

**its obligations hereunder, or the validity or enforceability of this Contract.**

- **All approvals, authorizations, consents, orders or other actions of any person or of any governmental body or official required to be obtained on or prior to the date hereof in connection with the execution and delivery of this Contract and the performance of the services contemplated by this Contract and the fulfillment of the terms hereof have been obtained.**
- **The Contractor and the executive officers of the Contractor have not been the subject of any proceeding under the United States Bankruptcy Code.**

**Force Majeure**
**The Contractor will not be liable for delay in performing under the contract if the delay arises out of causes beyond the control and without the fault or negligence of the Contractor.**

**Disputes**
**In the event of any dispute concerning any performance by the Department under the contract, the Contractor shall notify the Division Director in writing. The State Procurement Director or a designee, prior to commencement of an action in court or any other action provided by law, will attempt to negotiate a settlement of the dispute with the parties in accordance with A.C.A. § 19-11-246. If the claim or controversy is not resolved by mutual agreement, and after reasonable notice to the parties in accordance with A.C.A. § 19-11-246 (c) (1), the State Procurement Director or his designee shall promptly issue a decision in writing stating the reason for the actions taken and a copy of the decision shall be mailed or otherwise furnished to the Contractor. This decision will be final and conclusive.**

**Pending final determination of any dispute hereunder, the contractor shall proceed diligently with the performance of the contract and in accordance with the Division Director's instructions.**

**Confidentiality of Information**
**In connection with this contract, the Contractor will receive certain Confidential Information relating to DHS clients. For purposes of this contract, any information furnished or made available to the Contractor relating to DHS clients, the financial condition, results of operation, business, customers, properties, assets, liabilities or information relating to recipients and providers including but not limited to protected health information as defined by the Privacy Rule promulgated pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, is collectively referred to as "Confidential Information". The Contractor shall comply with all DHS policies governing privacy and security of Confidential Information, including the contracting division's designation of the Confidential Information as required by the Arkansas Data and System Security Classification Standards, and shall implement and maintain reasonable security procedures and practices appropriate to the nature of the Confidential Information as required by A.C.A. § 4-110-104, the Personal Information Protection Act ("the Act"). In addition, the Contractor shall comply with the Business Associate Agreement between the parties, incorporated herein by reference, and shall disclose any breaches of privacy or security by contacting the Information Technology Security Officer within one (1) business day of the breach by notification to the following e-mail address: dhs-it-security@arkansas.gov.**

**The contractor shall treat all Confidential Information which is obtained by it through its performance under the contract as Confidential Information as required by state and federal law and shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations. The parties acknowledge that the disclosure of Confidential Information in contravention of the provisions hereof would damage the party to whom the information disclosed relates and such party has the right to seek all remedies at law or equity to minimize such damage and to obtain compensation therefore. The Contractor agrees to retain all protected health information as defined by the Privacy Rule promulgated pursuant to HIPAA for**

**six (6) years or as otherwise required by HIPAA.**

**The contractor shall safeguard the use and disclosure of information concerning applicants for or recipients of Title XIX services in accordance with 42 CFR Part 431, Subpart F, and shall comply with 45 CFR Parts 160 and 164 and shall restrict access to and disclosure of such information in compliance with federal and state laws and regulations.**

**Public Disclosure**
**Upon signing of the contract by all parties, terms of the contract shall become available to the public, pursuant to the provisions of Ark. Code Ann., § 25-19-101 et seq.**

**Inspection of Work Performed**
**The State of Arkansas and its authorized representatives shall, at all reasonable times, have the right to enter the Contractor's work areas to inspect, monitor, or otherwise evaluate the quality, appropriateness, and timeliness of work, services, or both, that have been or are being performed.**

**Subcontracts**
**The Contractor is fully responsible for all work performed under the contract. The Contractor may, with the prior written consent of the Department, enter into written subcontract(s) for performance of certain of its functions under the contract. No subcontract under this contract shall in any way relieve the Contractor of any responsibility for performance of its duties. The Contractor agrees that all subcontracts shall adhere to Department policies.**

**The Contractor shall give the Department immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the Contractor or any subcontractor which may result in litigation related in any way to the contract or the Department.**

**In accordance with Executive Order 98-04, IF the agreement between the contractor and the subcontractor is greater than $25,000.00:**

- **The contractor shall require the subcontractor to complete a Contract and Grant Disclosure and Certification Form. This form must be signed no later than 10 days after entering into any agreement with a subcontractor and the contractor shall transmit a copy of this form to the agency.**
- **The contractor shall include the following in the contract between the Contractor and that Subcontractor:**

**Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates the rule, regulation, or policy shall be subject to all legal remedies available to the contractor.**

**Audit Requirement:**
**Contractor shall comply with the Department audit requirements as outlined in "Arkansas Department of Human Services Audit Guidelines". Copies may be obtained from:**

**Arkansas Department of Human Services**
**Office of Policy & Legal Services Audit Section**
**P.O. Box 1437 – Slot S270**
**Little Rock, Arkansas 72203-1437**

**Indemnification**
**The Contractor agrees to indemnify, defend, and save harmless the State, the Department, its officers, agents and employees from any and all damages, losses, claims, liabilities and related costs, expenses, including reasonable attorney's fees and disbursements awarded against or incurred by the Department arising out of or as a result of:**

- **Any claims or losses resulting from services rendered by any person, or firm, performing or supplying services, materials, or supplies in connection with the performance of the contract;**
- **Any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts (including without limitation disregard of Federal or State regulations or statutes) of the Contractor, its officers or employees in the performance of the contract;**
- **Any claims or losses resulting to any person or firm injured or damaged by the Contractor, its officers or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by Federal or State regulations or statutes;**
- **Any failure of the Contractor, its officers or employees to observe local, federal or State of Arkansas laws or policies, including but not limited to labor laws and minimum wage laws.**
- **The Contractor shall agree to hold the Department harmless and to indemnify the Department for any additional costs of alternatively accomplishing the goals of the contract, as well as any liability, including liability for costs or fees, which the Department may sustain as a result of the Contractor's or its subcontractor's performance or lack of performance.**

**Assignments**
**The Contractor shall not assign the contract in whole or in part or any payment arising therefrom without the prior written consent of the Department representative.**

**Waiver**
**No covenant, condition, duty, obligation, or undertaking contained in or made a part of the contract will be waived except by the written agreement of the parties, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the party to which the same may apply; and until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, any other party shall have the right in invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.**

**Department Property**
**Property, including intellectual property, acquired or created by the Contractor as a Contract deliverable, is the property of the Department. The Contractor shall be responsible for the proper custody and care of all Department owned property, including Department owned property used in connection with the performance of this contract and the Contractor agrees to reimburse the Department for its loss or damage due to negligence, theft, vandalism, or Acts of God.**

**Use and Ownership of Software**
**The Contractor will have access to all applications software that the Department requires the Contractor to use in the performance of the services covered in the contract, subject to customary confidentiality and other license terms and conditions. No changes in the applications software may be made without the written consent of the Contract Administrator if the change would have the effect of causing the Department to incur additional costs for either hardware or software upgrades or both.**

**Any applications software developed by the Contractor in the performance of the services under this contract must become the property of the State of Arkansas at no additional cost. Any existing software applications owned by the Contractor and used in the performance of the services under this contract must be granted to the State of Arkansas at no additional cost, subject to customary confidentiality and other license terms and conditions.**

**Contract Variations**
**If any provision of the Contract (including items incorporated by reference) is declared or found to**

**be illegal, unenforceable, or void, then both the Department and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of the Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.**

**Attorney's Fees**
**In the event that either party to this Contract deems it necessary to take legal action to enforce any provision of the contract, and the Department prevails, the Contractor agrees to pay all expenses of such action, including attorney's fees and costs at all stages of litigation as set by the court or hearing officer. Legal action shall include administrative proceedings.**

**Liability**
**In the event of non-performance of a contractual obligation by the Contractor or his agents which results in the determination by Federal authorities of noncompliance with Federal regulations and standards, the Contractor will be liable to the Department in full for all penalties, sanctions and disallowances assessed against the Department.**

**Records Retention**
**The Contractor agrees to retain all records for five (5) years after final payment is made under this Contract or any related subcontract. In the event any audit, litigation or other action involving these records is initiated before the end of the five (5) year period, the Contractor agrees to retain these records until all issues arising out of the action are resolved or until the end of the five (5) year period, whichever is later. The Contractor agrees to retain all protected health information as defined by the Privacy Rule promulgated pursuant to HIPAA for six (6) years or as otherwise required by HIPAA.**

**Access to Contractor's Records**
**The Contractor will grant access to its records upon request by state or federal government entities or any of their duly authorized representatives. Access will be given to any books, documents, papers or records of the Contractor which are related to any services performed under the contract. The Contractor additionally consents that all subcontracts will contain adequate language to allow the same guaranteed access to the records of subcontractors.**

**Ownership of Documentation**
**All documents and deliverables prepared by the Contractor and accepted by the Department shall become the property of the Department and shall not be used for any other purpose by the Contractor without the Department's specific written consent.**

**Disclosure**
**The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the State Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase agreement, or grant and shall subject the party failing to disclose or in violation to all legal remedies available to the Department under the provisions of existing law.**

**Set-Off**
**The parties agree that the Department, in its sole discretion, shall have the right to set-off any money Contractor owes the Department from the Department's payment to Contractor under this contract.**

**State and Federal Laws**
**Performance of this contract by both parties must comply with State and federal laws and regulations. If any statute or regulation is enacted which requires a change in this contract or any attachment, then both parties will deem this contract and any attachment to be automatically**

**amended to comply with the newly enacted statute or regulation as of its effective date.**

**Accessibility Act 1227 of 1999**

**TECHNOLOGY ACCESS: When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Vendor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that system meets the statutory requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.**

**ACCORDINGLY, THE VENDOR EXPRESSLY REPRESENTS AND WARRANTS to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) or similar documentation to demonstrate compliance with 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications) that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:**

- **Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means;**
- **Presenting information, including prompts used for interactive communications, in formats intended for non-visual use;**
- **After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired;**
- **Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means;**
- **Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact;**
- **Integrating into networks used to share communications among employees, program participants, and the public; and**
- **Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.**

**If the information technology product or system being offered by the Vendor does not completely meet these standards, the Vendor must provide an explanation within the Voluntary Product Accessibility Template (VPAT) detailing the deviation from these standards.**
**State agencies cannot claim a product as a whole is not commercially available because no product in the marketplace meets all the standards. If products are commercially available that meets some but not all of the standards, the agency must procure the product that best meets the standards or provide written documentation supporting selection of a different product.**

**For purposes of this section, the phrase "equivalent access" means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar**

**state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Act 308 of 2013, if equivalent access is not reasonably available, and then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.**

**As provided in Act 308 of 2013, if the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.**

**Employee Background Requirements**
**Contractor shall comply with Arkansas Code Annotated (A.C.A.) §21-15-101 *et seq*, or any amendments thereto, which requires all employees of state agencies, in designated positions including those providing care, supervision, treatment or any other services to the elderly, mentally ill or developmentally disabled persons, to individuals with mental illnesses or to children who reside in any state-operated facility or a position in which the applicant or employee will have direct contact with a child, to have a criminal history check and a central registry check. Should an applicant or employee be found to have been convicted of a crime listed in A.C.A. §21-15-101 *et seq.*, that employee shall be prohibited from providing services in a designated position as defined by Arkansas law or being present at the facility. Should an applicant or employee be found to have been named as an offender or perpetrator in a true, substantiated, or founded report from the Child Maltreatment Central Registry, the Adult Abuse Central Registry, or the Certified Nursing Assistant/ Employment Clearance Registry, the applicant/employee shall be immediately disqualified.**

**Prohibition Against Contingent Fees**
**It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.**

**Compliance with Department Policy Issuances**
**The Contractor agrees to deliver the services authorized by this contract or any attachment in accordance with all policies, manuals and other official issuances of the State of Arkansas and Department promulgated through the Administrative Procedures Act.**

**Relinquishment**
**The failure of the Department to insist upon the performance of any of the conditions in any one or more instances shall not be construed as a waiver or relinquishment of the future benefit of said condition.**

**Entire Contract**
**The parties acknowledge that each have read this Contract, understand it and agree to be bound by the terms. The parties further agree that this Contract is the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof and that it supersedes all prior proposals, representations, arrangements, understandings, and agreements, whether oral or written, between the parties with respect to the subject matter hereof.**

**This Contract may not be modified, amended, or in any way altered except by a written agreement duly executed by the parties and approved in accordance with the laws and established procedures of the State of Arkansas.**

**Survival of Rights and Obligations**
**The right and obligations of the Parties under this Contract shall survive and continue after the ending or expiration of the term of this Contract, and shall bind the parties, and their legal representatives, successors, heirs and assigns.**

**Notices**
**All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if mailed by first class mail, postage prepaid, to:**

_____

**(address)**

_____

**Attention:** _____

(Name of contractor contact person or such other name or address as may hereafter be furnished to Department in writing by the Contractor)

**Notices to the Department should be mailed to:**

**DHS Division of Medical Services**
Attention: Dawn Stehle, DMS Director
P.O. Box 1437, Slot S401
Little Rock, AR 72203-1437

**Severability of Provisions**
**If any one or more of the covenants, agreements, provisions or terms of this Contract shall be for any reason whatsoever held invalid, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Contract and shall in no way affect the validity or enforceability of the other provisions of this Contract.**

**Certification Regarding Lobbying:**
**The Contractor will comply with public law 101-121, section 319 (section 1352 of Title 31 U.S.C.) for an award in excess of $100,000.00 by certifying that appropriated federal funds have not been or will not be used to pay any person to influence or attempt to influence a federal official/employee in connection with the awarding of any federal contract, grant, loan or cooperative agreement.**

**If the Contractor has paid or will pay for lobbying using funds other than federal appropriated funds, Standard Form-LLL (Disclosure of Lobbying Activities) shall be completed and included as an attachment to this contract.**

**Certification Regarding Debarment**
**The Contractor, as a lower tier recipient of $25,000.00 or more in federal funds, will comply with Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions). By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 C.F.R. Part 76, certifies to the best of its knowledge and belief that it and its principals:**

- **are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal or state agency**
- **where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.**

**The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled *Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions* without modification in all lower tier covered transactions.**

**Contractor certifies that the Contractor is in compliance with Public Law 101-121 (Certification Regarding Lobbying) and Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions):**

**Certification Regarding Employment Practices**
**Neither the Contractor nor its subcontractors shall discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. The Contractor must take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. Such action shall include, but not be limited to, the following:**

- **Employment;**
- **Promotion;**
- **Demotion or transfer;**
- **Recruitment or recruitment advertising;**
- **Layoff or termination;**
- **Rates of pay or other forms of compensation; and**
- **Selection for training, including apprenticeship.**

**Contractor certifies that neither the contractor nor its subcontractors shall discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin, age (except as provided by law) or disability. Contractor must insure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, gender, national origin, age (except as provided by law) or disability. Such action shall include, but not be limited to, employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeships.**