



OFFICE OF LEGAL COUNSEL

Ufsinan I Maga'hågan Guåhan
Office of the Governor of Guam

LOURDES A. LEON GUERRERO
Governor of Guam

JOSHUA F. TENORIO
Lieutenant Governor of Guam

Transmitted via Central Files

October 6, 2021

MS. PHYLISS LEON GUERRERO

Director

DEPARTMENT OF INTEGRATED SERVICES
FOR INDIVIDUALS WITH DISABILITIES
Suite 702, DNA Building
238 Archbishop F.C. Flores Street
Hagåtña, Guam 96910

Re: Catholic Charities of the Diocese of Agana dba Catholic Social Service (CF#2021-14763)

Hafa Adai Director Leon Guerrero:

The following document(s) are transmitted with the signature of *I Maga'hågan Guåhan*:

Department of Integrated Services for Individuals with Disabilities Memorandum dated September 30, 2021: Contractual Agreement between Department of Integrated Services for Individuals with Disabilities and Catholic Charities of the Diocese of Agana dba Catholic Social Services – *DISID RFP 02-2021*

Any questions or concerns can be sent directly to the Legal Counsels via email (sophia.diaz@guam.gov or leslie.travis@guam.gov) or call (671) 473-1118.

Sensera mente,



LESLIE A. TRAVIS
Legal Counsel

Enclosure(s): Agreement; Procurement Binder

cc via email: *Maga'hågan Guåhan*
Sigundo Maga'låhen Guåhan

TRANSMITTAL ROUTING SLIP

CENTRAL FILES

Office of the Governor

CONTROL #	2021-14763	RECEIVED DATE:	9/30/21	<input type="checkbox"/> URGENT Deadline:
TYPE OF DOCUMENT:	<input type="checkbox"/> MOU/MOA <input type="checkbox"/> MEMO <input type="checkbox"/> LTR <input type="checkbox"/> REPORT <input type="checkbox"/> T/A <input checked="" type="checkbox"/> CONTRACT <input type="checkbox"/> GGI <input type="checkbox"/> LEAVE FORM <input type="checkbox"/> TIMESHEET <input type="checkbox"/> CARD <input type="checkbox"/> LEGISLATIVE BILL <input type="checkbox"/> OTHER:			
RECEIVED FROM:	DISID			
DESCRIPTION OF DOCUMENT	CONTRACTS BETWEEN DISID & CO DUCOSEF TAGANA D RFP - 02-2021			
SPECIAL NOTES OR INSTRUCTIONS:	<input type="checkbox"/> For Review <input type="checkbox"/> For Process & Signature <input type="checkbox"/> For Review & Signature <input type="checkbox"/> Other:			

	FROM - TO - NOTES - STATUS	INITIAL	DATE & TIME
1.	FROM CFO TO: <input type="checkbox"/> Gov <input type="checkbox"/> Lt. Gov <input type="checkbox"/> COS <input type="checkbox"/> DCOS <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Other:	(U) (LAT)	9/30/21 5:07pm
2.	FROM <u>LEGAL</u> TO: <input checked="" type="checkbox"/> Gov <input type="checkbox"/> Lt. Gov <input type="checkbox"/> COS <input type="checkbox"/> DCOS <input type="checkbox"/> Legal <input type="checkbox"/> Other:	GOVERNOR GOVERNORS CHAMBER	DATE: 10/5/21
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Department of Integrated Services for Individuals with Disabilities



Phyliss Leon Guerrero
DIRECTOR

Dipåtamenton Programa Para I Maninutet
Government of Guam

Lourdes A. Leon Guerrero,
GOVERNOR

Michelle Perez
DEPUTY DIRECTOR

Division of Support Services for Individuals with Disabilities

Joshua F. Tenorio
LIEUTENANT GOVERNOR

September 30, 2021

MEMORANDUM

To: Governor of Guam

From: Phyliss Leon Guerrero
Director – Department of Integrated Services for Individuals with Disabilities

Subject: Contracts between DISID and Catholic Charities of the Diocese of Hagåtña

Submitted for your review and approval is the contract between the Department of Integrated Services for Individuals with Disabilities and Catholic Charities of the Diocese of Hagåtña Dba: Catholic Social Service -Professional Services Providing 24-Hour Residential and Support Services for Adults with Persistent Developmental and Cognitive/intellectual Disabilities (Level A, B, and C).

Your approval of this contract is requested. Should you have any questions or concerns regarding this contract, please contact me at 475-4624.

Phyliss Leon Guerrero
for Phyliss Leon Guerrero
Director

Spencer Parkes
RCVD AT CENTRAL FILES
SEP 30 '21 PM4:38

2021 10763

**Department of Integrated Services for Individuals with
Disabilities (DISID)**

DISID RFP 02-2021

Professional Services

**Providing Community Habilitation Program, Adult Day Care services
and activities for individuals with severe intellectual developmental
delayed and significant disabilities.**

ITEM NO. 19

CONTRACT INCLUDING ALL DRAFT VERSIONS

SEPTEMBER 2021

**CONTRACTUAL AGREEMENT BETWEEN
DEPARTMENT OF INTEGRATED SERVICES FOR INDIVIDUALS WITH DISABILITIES
AND
CATHOLIC CHARITIES OF THE DIOCESE OF AGANA
Dba CATHOLIC SOCIAL SERVICES**

DISID RFP 02-2021

This AGREEMENT is made between the DEPARTMENT OF INTEGRATED SERVICES FOR INDIVIDUALS WITH DISABILITIES, Division of Support Services, an agency of the government of Guam, (hereinafter called DISID), whose office address is 238 Archbishop Flores St., DNA Building Suite 702, Hagatna, Guam 96910 and CATHOLIC CHARITIES OF DIOCESE OF AGANA, dba CATHOLIC SOCIAL SERVICE, a non-profit organization under the laws of Guam, (hereinafter called the Service Provider) whose office address is 234-A U.S. Army Sgt. Juan C. Fejeran Street, Barrigada, Guam 96913.

WHEREAS; DISID requested proposals from qualified Guam service providers to provide professional services providing community habilitation and day activities for adults with severe intellectual and significant disabilities.

WHEREAS, DISID has provided adequate public announcement of the need for such service through a request for proposal (DISID RFP 03-2021) describing the type of services required and specifying the type of information and data required of each offer and the relative importance of particular qualifications; and

WHEREAS, the Service Provider has submitted its proposal and interest in providing such services; and

WHEREAS, the award of this contract to the Service Provider has been made pursuant to a written finding by DISID that the Service Provider is qualified based on the evaluation factors set forth in the request for proposal, and that negotiations of compensation have been determined to be fair and reasonable;

NOW THEREFORE, DISID and the Service Provider, in consideration of mutual covenants hereinafter set forth, agree as follows:

SECTION I.
PURPOSE

Professional services providing community habilitation and day activities for adults with severe intellectual and significant disabilities.

SECTION II.
SCOPE OF WORK

A. Eligibility

1. Individual is eighteen (18) years or older, male or female;
2. Individual is documented as having a severe/intellectual developmental delay disability who requires rehabilitative services in order to function more independently in the home/community along with physical supervision by family member, caregiver or job coach;
3. Consumer should have completed educational or other services prior to referral to CHP program; and
4. Consumer must have a legal guardian documentation prior to referral to CHP.
5. Chronically impaired disabled persons eighteen years of age or older, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, who are physically or intellectually disabled to the extent that their capacity for independency and their ability to carry out activities of daily living is markedly limited. Additionally, because the program is intended to benefit adults living in their community, enrolled participants who reside in a residential facility are not eligible for participation.

B. Ineligibility

1. Adults with cognitive deficits due to dementia and/or medical/neurological conditions;
2. Adults who are concurrently enrolled in educational and other day treatment or rehabilitative services; or
3. Adults with significant behavioral issues impacting the therapeutic environment such as, at risk for elopement, falling/mobility issues, aggressive behaviors, sexual acting out behaviors and other medical diagnosis/behaviors as deemed inappropriate by Service Provider.

C. Day Activities

1. DISID will initiate all referrals to CHP;
2. Acceptance in program will be determined by Service Provider;
3. Service Provider will conduct a baseline assessment of consumers' ADLS/IADLS/IHPS;
4. Service Provider will identify and develop an individualized rehabilitative plan that includes:
 - a. Activities of daily living such as bathing, dressing, eating, preparing basic meals, washing clothes and other grooming and hygiene activities); and
 - b. Instrumental activities of daily living. Daily programming and supports to improve consumers' ability and skills with home management (i.e., house leaning, room cleaning, laundry, yard maintenance and organization/care of personal items), time management, money management (i.e., budgeting and shopping for groceries and other supplies).
5. Service Provider will review comprehensive rehabilitative treatment plan monthly,

- quarterly and annually.
6. Service Provider will schedule quarterly and annual meetings with guardians to review the day treatment progress.
 7. Service Provider will provide to DISID staff quarterly and annual report that includes the following items:
 - a. Progress with ADLS/IADLS/IHPS;
 - b. Community activities;
 - c. Family involvement;
 - d. Transitional and other recommendations.

D. Service Provider will:

1. Offer a structured, goal-oriented habilitation program to raise consumer's levels of functioning and facilitate community integrations:
 - a. Provide Developmental Skills Training composed of a series of planned, coordinated, goal-oriented series that are designed to improve the functional abilities of a person with an intellectual disability. Such services include, but are not limited to self-care, understanding and use of language, learning, mobility, self-direction, or capacity for community integration.
 2. Be in operation Monday through Friday excluding weekends and CSS designated holidays, from 7:00am to 3:00pm.
 3. Will be staffed and organized to assume full legal authority and responsibility for administration and program policy.
 4. Will have organizational and functional charts showing
 - d. Its governing body
 - e. The administrator and her/his roles in the program;
 - f. The lines of authority for the delegation of responsibility down to the consumer care level.
 5. Will have building facility in compliance with Americans with Disabilities Act Amendments Act (ADAAA) standards and readily available upon the completion of signature of the contact to include the following:
 - a. Separate accessible bathrooms for male and female consumers;
 - b. Separate accessible roll-in shower room with spray nozzle;
 - c. Kitchenette;
 - d. Separate Rest and Relax Room with bed, also to be utilized as a changing room.
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6. **Required minimum qualifications. (CHP must designate one person as a program director.)**
 - a. **Qualifications:** The program director must have either a bachelor's degree in rehabilitation, special education, psychology, social services, or three (3) to five (5) years working with consumers with intellectual disability;
 - b. **Responsibilities.** The program director is responsible for managing the day-to-day activities of the program reporting to DISID and other involved agencies, monitoring compliance with all applicable laws and regulations governing the program and implementing the program's policies and procedures. The responsibilities of the program director include hiring, firing, training staff members, supervising staff activities, coordinating staff activities to meet the program objectives and overseeing member services.
 7. **Recruitment and Hiring.** The Service Provider must ensure the recruitment and hiring of appropriate professional and para-professional staff, either employees or consultants of the Service Provider.
 8. **CHP Policies and Procedures.** The Service Provider must establish internal policies and procedures governing the operations and administration of the program (i.e., consumer and staff rules and regulations, operational procedures and schedules, etc.) for consumers and staff guidance and approved by DISID.
 9. **Total Cases in this Program.** The maximum number of clients to be served will be the existing client count of 10 individuals and no more of 10 individuals will be served during fiscal period 2022. No new referrals will be accepted unless an existing slot becomes vacated.
 10. **Record keeping.** Staff must maintain a services record in each consumer's file, charting daily activities, to include training plan, its progress and updates, general daily behavior observation and incidences.
 11. **Yearly Training and Updated Health Certificates.** Program staff must complete yearly CPR and CPI training. A copy of the list of staff certifications and/or re-certifications must be included in the monthly report.
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E. DISID will provide:

1. Upon referral to Service Provider program, DISID staff member will provide a baseline psychological assessment and evaluation report to assist Service Provider and staff in the development of CHP comprehensive rehabilitative treatment plan.
2. DISID staff will provide consultative services to assist Service Provider with additional behavioral strategies to improve consumers' rehabilitative progress, if warranted.
3. DISID will participate in Service Provider's quarterly and annual review of progress and achievement of rehabilitative treatment goals;
4. DISID will provide case management, psychiatric and medication management services, if warranted.

F. Deliverables

The Service Provider will provide in detail a proposed plan outlining the completion of services by the CHP staff. The Service Provider will include plans to develop, expand or improve services and referral systems that adequately provide for the needs of the family and the individuals who have a significant disability. The plan should include facilities available, training of staff, and items that will ensure an effective delivery of service.

1. **Outcome measures (programmatic)**
All services provided will be individualized, appropriate, and aimed at adults with significant disability. The following outcome measures will be employed to determine the value of the program and their success in achieving established goals defined in the IHSP:
 - a. Evidence of compliance with requirements of the program;
 - b. Improvement in functioning.

In addition to the measure outlined above, a consumer satisfaction survey will be utilized to determine the satisfaction with services provided.

2. **Consumer Rights Protection**
The Service Provider will identify barriers and disadvantages that threaten the exercise of equal rights and equal opportunities of adults with significant disability. Service Provider will use a systematic approach to ensure the protection of rights, and equal opportunity of this population. Service Provider will provide education in personal advocacy to consumers served through the contract and their families to aid them in understanding their rights and make them aware of the availability of external resources to assist in upholding these rights. Service Provider will assist consumer to eliminate unfair treatment and discrimination against the qualified workers with disability, to improve access to mainstream resources and to obtain consideration of disabled applicants' qualifications taking into account reasonable accommodations and support services.
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Under no circumstances will Service Provider provide legal counsel or representation of consumers through this contract.

Service Provider will at all times be compliant with all laws and regulations that govern the protection of persons with disabilities and/or age.

G. Staffing Requirements

1. Recruit and hire qualified staff, resulting in efficient delivery of services.
2. Mainstream job descriptions for each job description, containing minimal criteria of the position as well as specific job functions and responsibilities.
3. Each job positions shall have a defined pay range.
4. Training:
 - a. The Service Provider will implement and maintain, on an on-going basis, an in-service training program for the staff, with training sessions in keeping with licensing requirements;
 - b. Provide for intensive initial training of staff relevant to their program component;
5. Written job evaluations will be completed annually on each staff member.

H. Programmatic Recordkeeping

1. Each consumer will have a case record which will have at a minimum the following information:
 - a. Identifying information. Gender/race/address of the consumer; birth date and birth place of the consumer; name and address of the consumer's current place of employment or school, court and/or legal status and name of person authorized to give consent, if applicable, the names, addresses and phone numbers of other persons or providers involved with the consumer case/plan; the consumer's physician's address and phone number;
 - b. Health record. Will include any serious of life-threatening medical condition of the consumer, including a description of a current treatment or medication necessary for the treatment of serious of life-threatening condition(s) and/or any known allergies;
 - c. Complete history of the consumer including, where applicable: family data; employment record; prior medical history; medications; known allergies, as well as any other such pertinent information.
 - d. The consumer assessments, evaluations and individualized plan(s);
 - e. Any incident reports involving the consumer;
 - f. Any other recordkeeping requested or mandated by
 - g. Local and Federal laws.
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2. Consumer records will be stored (secured) in such a manner as to be accessible to all staff involved with the consumer and still protect the consumer's confidentiality. Closed consumer records will be retained for the period prescribed by law.
3. Quarterly summaries will provide documentation of services provided including outcomes achieved and/or barriers with plans to address them and personal financial information. Copies of quarterly summaries and financial information be provided to DISID designated point of contact/contract monitor.

I. Required Documentation

1. The Service Provider will employ recordkeeping procedures which will provide an audit trail for expenditures and income received. Appropriate financial documentation for reimbursement must be submitted monthly to DISID. Failure to establish and retain adequate documentation of all expenditures represents a contractual breach and will result in disallowance of such expenditures.
2. All work under the contract will be monitored by DISID. Program review of contract conditions of the statement of work will be conducted by DISID on a semi-annual basis, and more frequently as necessary. Service Provider will respond to issues of concern raised by DISID clinicians within fifteen (15) days of receipt. DISID will be responsible for conducting site visits as a means for conducting any program reviews of the contract.
3. Results of program evaluations will be made available for periodic surveys by DISID.
4. DISID is responsible for the technical direction of the contract, which includes reviewing and accepting all reports relative to consumer services, financial documentation and verification, and other reports as requested. Notwithstanding any other terms of the contract, failure of the Service Provider to submit required reports when due, perform services or deliver required work will result in the withholding of payments under the contract.

II. Admission and Discharge

1. Admission/Referral for Admission. All referrals for admission will be processed by the Service Provider in conjunction with DISID.
 2. Discharges: All discharges will be processed by the Service Provider in conjunction with DISID.
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K. Fraud and Abuse

1. The Service Provider shall have internal controls and policies and procedures in place that are designed to prevent, detect, and report known or suspected fraud and abuse activities.
2. Such policies and procedures must be in accordance with local and federal regulations.

Service Provider will be adequate staffing and resources to investigate unusual incidents and develop and implement corrective action plans to assist the Service Provider in preventing and detection potential fraud and abuse activities.

L. Filing of Grievances: Consumers have the right to file a grievance if any staff or facility has:

1. Violated a right provided by statute, regulation or policy.
2. Treated in an arbitrary or unreasonable manner.
3. Denied services authorized by a treatment plan due to negligence, discrimination, or other improper reasons.
4. Engaged in coercion to improperly limit your treatment choices.
5. Unreasonably failed to intervene when their rights have been jeopardized in a setting controlled by the facility.
6. Failed to treat consumers in a humane or dignified manner.

Service provider must include a procedure on how to handle complaints, remedies, hearings and other resolutions available in accordance with local and/or federal laws pertaining to the rights of consumers with severe intellectual and significant disabilities.

M. Designated Point of Contact

Service Provider will have an assigned staff member who will be responsible for primary oversight of the contract. This individual will schedule meetings to discuss progress of activities and problems identified.

**SECTION III.
CONTRACT TERM**

A. Initial Term.

The initial term contract will begin upon the date that the Governor approves the contract, as signified by his execution of the contract and will end September 30, 2022.

B. Renewal Terms.

At the option of the government, and as agreed to by the Service Provider, the contract may be renewed for two (2) additional one (1) year periods (each being a "Renewal Term"). Upon expiration of the Renewal Term, this contract will expire, unless sooner terminated.

C. Monthly Extension Periods.

At the option of the government, and as agreed to by the Service Provider, the contract may be extended after the Renewal Term on a month-to-month basis (each being a

"Monthly Extension Period"), to begin immediately after the expiration of the Renewal Term, provided that in no event may the parties agree to more than six (6) Monthly Extension Periods. The Monthly Extension Periods may be agreed to by the parties only if the government is unable to continue the services under a new contract after a new solicitation and procurement is undertaken by the government.

- D. The Initial Term and subsequent terms of the contract are subject to the availability of funds. The funds for the first twelve (12) months (or pro-rated fiscal year if applicable) of the Initial Term of the contract are certified as part of the execution of the contract. In the event that funds are not allocated, appropriated or otherwise made available to support continuation of performance in any period time after the first twelve (12) months (or pro-rata fiscal year if applicable) the contract will be cancelled; however, this does not affect either DISID's rights or the Service Providers rights under any termination clause of the contract. DISID will notify the Service Provider on a timely basis in writing that funds are or are not available for the continuation of the contract for each succeeding period. In the event of the cancellation of this multi-term contract as provided above, the Service Provider will be reimbursed its unamortized, reasonably incurred, nonrecurring costs.

There may be multiple certifications of funds by DISID during any term of the contract.

SECTION IV.
SERVICE PROVIDER'S COMPENSATION FOR SERVICES

A. Compensation.

DISID shall compensate Service Provider for services performed pursuant to Section II Scope of Work, and the agreed staffing pattern, and cost and pricing labelled as Attachment A, attached hereto and incorporated herein as if fully rewritten. The parties have agreed to the total 12-month, Fiscal year, not-to-exceed amount of FOUR HUNDRED EIGHTY-FOUR THOUSAND FIVE HUNDRED FIFETY FIVE AND 91/100 (\$484,555.91). the parties agree to compensation For the Initial Term of this Agreement through September 30, 2022, in the total not-to-exceed Amount of Four Hundred Eighty-Four Thousand Five Hundred Fifty-Five And 91/100 (\$484,555.91), subject to the appropriation, allocation and availability of funds. Multiple certifications of funds may be made in any fiscal year. Upon renewal, Service Provider may negotiate for a cost adjustment.

B. Invoices and Payments

Offeror will be compensated monthly upon the clearance of monthly invoices by DISID.

All compensation is subject to appropriation, allocation and availability of funds, upon completion of the services and receipt of any deliverables and a monthly invoice in the form agreed by the parties. If less than a month of service is provided, DISID will pro-rate the payment based on the number of days of service provided. Payment will be based upon actual costs, as defined in 2 GAR Division 4 § 7101(1), submitted less disallowed costs and penalties, as applicable. Compensation based upon the aggregate of actual cost submitted may be less than the agreed upon compensation, but in no event will it exceed the agreed upon compensation.

The invoice should reflect only those service fees incurred for the current billing period. Each invoice should also include the total amount billed from the inception of the current contract year. All invoices are subject to review and approval by DISID. The acceptance and payment of any invoice will not be deemed a waiver of any of the DISID's rights under the agreement.

In any reporting month there exists a discrepancy in the statistical, narrative or financial reports submitted by Offeror to DISID, ten percent (10%) of the invoice amount after applying any penalties or disallowed costs, will be withheld until the discrepancy has been resolved to the satisfaction of DISID.

C. Final Payment.

DISID will make final payment delivery and acceptance of all services mentioned herein specified and performed. Prior to final payment and as a condition precedent thereto, the Service Provider will execute and deliver to DISID a release, in a form provided by DISID, of claims against DISID and the government of Guam arising under and by virtue of the contract. Additionally, prior to final payment and as condition precedent thereto, the Service Provider will ensure a smooth program transition back to DISID or to the new service provider identified by DISID; and will immediately provide DISID with all program related information, files, equipment, service contributions/program income (contributions, donations, and gifts) remaining balances and all other operational and administrative and service documents and/or tangible assets.

D. Allowable Costs. (Cost Reimbursement)

The Service Provider agrees to comply with the following standards of financial management:

1. Financial Records.

The Service Provider will provide complete, accurate, and current financial disclosures of the project or program in accordance with any financial reporting requirements, as set forth in the financial provisions.

2. Accounting Records.

The Service Provider will continuously maintain and update records identifying the source and use of funds. The records will contain information pertaining to the contract, authorizations, obligations, unobligated balances, assets, outlays, and income.

3. Internal Control.

The Service Provider will maintain effective control over and accountability for all funds and assets. The Service Provider will keep effective internal controls to ensure that all DISID funds received are separately and properly

allocated to the activities described in this Agreement. The Service Provider will adequately safeguard all such property and will ensure that it is used solely for authorized purposes.

4. Source Documentation.

The Service Provider will support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and sub-grant (as applicable) contract documents, and so forth. All costs invoiced by contract in this Agreement will be reasonable, lawful, allocable, and accounted for in accordance with generally accepted accounting principles set forth in 2 GAR Division 4 § 7101 or in any federal assistance instrument applicable to this Agreement.

5. Reimbursable Cost Principles.

The Service Provider will support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and sub-grant and/or contract documents and so forth.

6. Allowable Cost.

Total allowable cost of the contract is the sum of allowable direct costs actually incurred in the performance of the contract in accordance with the terms of the contract, plus the properly allowable indirect costs, less any applicable credits. Costs will be allowed to the extent they are: reasonable as defined in 2 GAR Division 4 § 7101 (d); and allocable, as defined in 2 GAR Division 4 § 7101

(e) and lawful under any applicable law; and not unallowable under 2 GARS Division 4 § 7101(f). In the case of costs invoiced for reimbursement, they will be actually incurred or accrued and accounted for in accordance with generally accepted accounting principles.

7. Applicable Credits.

Applicable credits are receipts or price reductions which reduce expenditures allocable to contracts as direct or indirect costs, as defined in 2 GAR Division 4 § 7101 (h). In the event the Service Provider receives discounts, rebates and or other applicable credits accruing to or received by the Service Provider or any subcontractor under the contract, to the extent those credits are allocable to the allowable portion of the cost billed to the DISID; allowable costs will be paid to the Contactor, net of all discounts, rebates and other such applicable credits. The Service Provider will separately identify for each cost submitted for payment to DISID the amount of

unallowable costs; or the Service Provider will exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification.

The Service Provider will identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the DISID for payment and individually identify the amount as a discount, rebate or in case of other applicable credits, the nature of the credit. The DISID may permit the Service Provider to report this information on a less frequent basis than monthly, but no less frequently than annually. The Service Provider will identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract.

SECTION V.

THE GOVERNMENT IS NOT LIABLE

- A. DISID assumes no liability for any accident or injury that may occur to the Service Provider, his or her agents, dependents, or personal property while in route to or from worksite or during any travel mandated by the terms of this Agreement.
- B. DISID will not be liable to the Service Provider for any work performed by the Service Provider prior to the approval of this Agreement by the Governor of Guam and the Service Provider hereby expressly waives any and all claims for services performed in expectation of this Agreement prior to its approval by the Governor of Guam.

SECTION VI.

SPECIAL REPORTING REQUIREMENT FOR NON-PROFIT ORGANIZATIONS

- A. In the event that the Service Provider is a non-profit organization, the Service Provider will comply with the reporting requirements set forth in P.L. 33-66 Chapter XIII Section 6 and this clause, or any subsequent public report requirement law(s). In the event one of the Service Provider's subcontractors is a non-profit organization, the provisions of this clause will also be deemed to apply to the Service Provider's subcontractor, and the Service Provider is obligated to submit its non-profit subcontractor's information in the same manner and time periods.
 - B. The Service Provider will maintain accurate financial records of all monies paid to it under this Agreement. The Service Provider will provide to DISID a budgetary breakdown by object category as to all services under this Agreement. An initial
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proposed budgetary breakdown is part of the request for proposal, and the agreed cost proposal, budget, staffing request and are incorporated into the scope of services of this Agreement as part of Attachment A.

- C. The Service Provider will provide to DISID a quarterly report describing its activities during the reporting period and the results it achieved no later than twenty (20) days after the end of each Quarter of the fiscal year.
 - D. The Service Provider will provide prior written notification to DISID of all procurement of equipment and services of Five Thousand Dollars (\$5,000.00) or more as to its services related to this Agreement, or with regard to items to be invoices as part of the contract.
 - E. The Service Provider will provide access to duly authorized representative of the DISID, the Guam Public Auditor, or their authorized representatives, to any and all appropriate records for the purpose of audit and examination of books, documents, papers, and records of funds expended as part of the contract. The Service Provider will upon written request by DISID, the Guam Public Auditor or their authorized representatives provide source documentation, including but not limited to copies of checks or receipts, employee pay statement, inventory receipt, attendance records, utility bills.
 - F. The Service Provider is subject to the Single Audit Rules and will provide annually (as applicable) to DISID copies of its Audit Reports for all time periods covered as part of this Agreement.
 - G. The Service Provider will provide certified detailed inventory listing of each Fiscal Year's purchases under the contract to DISID as well as a Fiscal Year-end report of all expenditures of funds under the contract no later than November 15, the initial year, and November 15, of each subsequent year.
 - H. In the event the Service Provider fails to timely provide any reports or items set forth in this section to DISID after prior written reasonable notice by DISID to the Service Provider and the Service Provider's failure to cure the contract default, the DISID in addition to other contractual rights and remedies under this contract, may withhold payment of Ten Percent (10%) of any amounts that are invoiced under this Agreement by the Service Provider.
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SECTION VII.

DISID AGREES TO THE FOLLOWING

- A. To Maintain oversight of the Service Provider's performance in administering DISID's Community Habilitation and Day Activities for Adults with Severe Intellectual and Significant Disabilities.
- B. The use of selected equipment as negotiated with the Service Provider when providing direct therapeutic intervention and/or activities to consumers.

SECTION VIII.

RESPONSIBILITY OF SERVICE PROVIDER

- A. The Service Provider will be responsible for the professional and technical accuracy of all work and materials furnished under this Agreement. The Service Provider will, without additional cost to the DISID, re-do services, correct or revise all errors or deficiencies in its services, work and material identified during the term of the contract, and any applicable warranty period.
- B. The Service Provider will devote its best efforts to the duties and responsibilities under the contract in accordance with the laws, rules, regulations and policies of the government of Guam.
- C. DISID's review, approval, acceptance of, and payment of fees for services required under the contract, will not be construed to operate as a waiver of any rights under the contract or of any cause of action arising out of the Service Provider's failure of performance, except as provided herein, and the Service Provider will be, and remain liable, to the DISID for all direct costs which may be incurred by the DISID as result of the Service Provider's negligent performance of any of the services or work which are performed under the contract.

SECTION IX.

ACCESS TO RECORDS AND OTHER REVIEW

- A. The Service Provider, including its subcontractors, if any, will maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available at their respective offices at all reasonable times during the contract period and for three (3) years from the date of the final payment under the contract, for inspection by DISID, the Public Auditor, and any applicable Federal Granting Agency, Inspector General or its delegate. Each subcontract by the
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Service Provider pursuant to this Agreement will include a provision containing the conditions of this Section.

- B. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the three (3) year period, the records will be kept until all issues are resolved, or until the end of the regular three (3) year period, whichever is later.
- C. Records for non-expendable property acquired in whole or in part, with funds from this contract funds will be retained for three (3) years after its final disposition.
- D. The Service Provider will provide access to any project site(s) to DISID, Guam Public Auditor and in the event, there are federal funds, the Federal Granting Agency or its designated Inspector General or their authorized representative. The rights of access in this section will not be limited to the required retention period but will last as long as the records are kept.

SECTION X.
OWNERSHIP OF DOCUMENTS

All briefs, memoranda and incidental to the Service Provider's work or materials furnished hereunder will be and remain the property of DISID including all publication rights and copyright interests and may be used by DISID without any additional cost to DISID.

SECTION XI.
INDEMNITY

The Service Provider agrees to save and hold harmless DISID, its officers, agents, representatives, successors and assigns, and other governmental agencies from any and all actions, proceedings, claims, demands, costs, damage, attorney fees and all other liabilities and expense of any kind or any source which may arise out of the performance of this Agreement, caused by the negligent act or failure of the Service Provider, its officers, employees, servants, or agents, or if caused by the actions of any client of the Service Provider resulting in injury or damage to persons or property during the time when the Service Provider or any of officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Service Provider or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Service Provider, the Service Provider will as soon as practicable but no later than two (2) days after it receives notice thereof, notify the Director of DISID by certified mail.

SECTION XII.
CHANGES

The DISID may at any time, by written order make any change in the services to be performed hereunder. If such changes cause an increase or decrease in the costs of doing the work under this Agreement, or in the time required for this performance, an equitable adjustment will be made and this Agreement will be modified in writing accordingly.

SECTION XIII.
INSURANCE

Service Provider agrees to procure and maintain in effect Workers Compensation, Commercial General Liability, and Comprehensive General Liability Insurance coverage. The Service Provider will provide certificates of such insurance to DISID when required and will immediately report in writing to DISID any insurance claims filed. The Service Provider is responsible for obtaining and maintaining the necessary coverage for the operation of this program.

- A. Workers Compensation Insurance in the form and amount required by the law or the government of Guam to cover all employees working in any capacity in executing this contract.

- B. Commercial General Liability on an "Occurrence Basis" with limits of liability not less than One Million Dollars (\$1,000,000) per occurrence and/or combined single-limit bodily injury and property damage. The Service Provider will ensure the insurance is issued by a company authorized to do business on Guam with minimum limits of not less than One Million Dollars (\$1,000,000) for bodily injuries or death per occurrence, and not less than Three Hundred Thousand Dollars (\$300,000) for damages to property. Such policy will insure the Government and their respective agents and employees with respect to liability as a result of the ownership, maintenance, use or operation of vehicles pursuant to the Agreement.

- C. Professional Liability Insurance in a form acceptable to the Government and with a limit of liability of not less than One Million dollars (1,000,000).

SECTION XIV.
TERMINATION

- A. Termination for Defaults:
 - 1. Default.
If the Service Provider refuses or fails to perform any of the provisions of this Agreement with such diligence as will ensure its completion within the time specified in this Agreement, or any extension thereof, otherwise fails to timely satisfy the
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contract provisions, or commits any other substantial breach of this Agreement, DISID may notify the Service Provider in writing of the delay or non-performance and if not cured in five (5) days or any longer time specified in writing by DISID, DISID may terminate the Service Provider's right to proceed with the Agreement or such part of the Agreement as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, DISID may procure similar professional services in a manner and upon terms deemed appropriate by DISID. The Service Provider will continue performance of this Agreement to the extent it is not terminated and will be liable for excess costs incurred in procuring similar professional services, goods or services.

2. **The Service Provider's Duties.**

Notwithstanding termination of the Agreement and subject to any directions from DISID, the Service Provider will take timely, reasonable, and necessary action to protect and preserve property in possession of the Service Provider in which DISID has an interest.

3. **Compensation.**

Payment for completed professional services delivered and accepted by DISID will be per Section IV Compensation for the Service Provider's services. DISID may withhold from amounts due the Service Provider such sums as DISID deems to be necessary to protect DISID against loss because of outstanding liens or claims of former lien holders and to reimburse DISID for the excess costs incurred in procuring similar professional services. The Service Provider may pursue its rights under Section XVI Mandatory Disputes clause of this Agreement, and the Guam Procurement Laws and Regulations if it disagrees with the Workers Compensation decision with regard to compensation.

4. **Erroneous Termination for Default.**

If, after notice of termination of the Service Provider's right to proceed under the provisions of this clause, it is determined for any reason that the Service Provider was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Section XXII Force Majeure of this Agreement, the rights and obligations of the parties will be the same as if the notice of termination had been issued pursuant to such clause.

5. **Additional Rights and Remedies.**

The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

6. **Non-Profit Organization Special Reporting Requirements.**

The Service Provider, if a non-profit organization subject to Section VI Special Reporting Requirements of Non-Profit Organizations (P.L. 33-66 Chapter XIII Section 6) or current fiscal year related mandate; and if the Service Provider fails to timely provide any reports or items set forth in Section VI Special Reporting Requirements for Non-Profit Organizations of this Agreement; then the DISID

pursuant to that section may after prior written reasonable notice to the Service Provider and the Service Provider's failure to cure the contract default, the DISID in addition to other contractual rights and remedies under this Agreement, may withhold payment of Ten Percent (10%) of any amounts that are invoiced under this Agreement by the Service Provider.

B. Termination for Convenience.

1. Termination.

The Director of DISID may, when the interest of DISID so requires, terminate this Agreement in whole or in part, for the convenience of DISID. The Director of DISID will give thirty (30) days prior written notice of the termination to the Service Provider specifying the part of the contract terminated and when termination becomes effective.

2. The Service Provider's Obligations.

The Service Provider will incur no further obligations in connection with the terminated professional services and on the date set in the notice of termination, the Service Provider will stop work to the extent specified. The Service Provider will also terminate outstanding orders and subcontracts as they relate to the terminated professional services. The Service Provider will settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated professional services. The Service Provider must still complete the professional services not terminated by the notice of termination and may incur obligations as are necessary to do so.

In the event there is any deliverables and/or reports due per this Agreement, the Service Provider and DISID will meet and set up the delivery dates for those items not set forth in the written notice of termination.

3. Compensation.

The Service Provider will invoice DISID in keeping Section IV Compensation for Service Provider's Services for professional services performed up to the date of termination.

C. Program Transition.

In the event of the termination under this Section Xavi. Termination, the Service Provider will take all steps necessary to ensure a smooth and professional transition of the program to prevent any interruption of the services to the clients and to preserve the integrity of the program. The Service Provider will immediately prepare to relinquish all program related information, files, major equipment items, service contributions, and program income (contributions, donations, and gifts) remaining balances and all other operational and administrative and service documents and/or other tangible assets or items to DISID.

SECTION XV.
PRODUCT OF SERVICE-COPYRIGHT

All materials developed or acquired by the Service Provider under this Agreement will become the property of the GHWC and will be delivered to the DISID no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Service Provider under this Agreement will be subject of an application for copyright or other claim of ownership by or on behalf of the Service Provider.

SECTION XVI.
MANDATORY DISPUTE RESOLUTION CLAUSE

In the event of a conflict between this "Mandatory Disputes Resolution Clause" and any other terms in this Agreement, it is the intent of the DISID and the Service Provider that the terms of this clause are to be given precedence.

A. Disputes - Contractual Controversies.

The DISID and the Service Provider agree to attempt resolution of all controversies which arise under, or are by virtue of, this Agreement through mutual agreement. If the controversy is not resolved by mutual agreement, then the Service Provider will request the Director of DISID or his designee, in writing to issue a final decision within sixty days after receipt of the written request in keeping with 5 GCA § 5427 (c). The Director of DISID or their designee will immediately furnish a copy of the decision to the Service Provider, by certified mail with a return receipt requested, or by any other method that provides evidence of receipt.

B. Absence of a Written Decision within Sixty Days.

If the Director of DISID, or his designee does not issue a written decision within sixty days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the Service Provider may proceed as though the Director of DISID, or his designee had issued a decision adverse to the Service Provider.

C. Appeals to the Office of Public Accountability.

The Director of DISID, or his designee's decision will be final and conclusive, unless fraudulent or unless the Service Provider appeals the decision administratively to the Public Auditor in accordance with 5 GCA § 5706.

- D. Disputes – Money Owed to or By the Government of Guam.**
This subsection applies to appeals of the DISID'S decision on a dispute. For money owed by or to the government of under this Agreement, the Service Provider will appeal the decision in accordance with the "Government Claims Act", 5 GCA § 6101 et. seq., by initially filing a claim with the Office of the Attorney General no later than eighteen (18) months after the decision is rendered by the government of Guam or from the date when a decision should have been rendered. For all other claims by or against DISID under this Agreement, the Office of the Public Auditor has jurisdiction over the appeal from the decision of DISID. Appeals to the Office of the Public Auditor will be made within sixty (60) days of the DISID'S decision or from the date the decision should have been made.
- E. Exhaustion of Administrative Remedies.**
The Service Provider will exhaust all administrative remedies before filing an action in the Superior Court of Guam in accordance with applicable laws.
- F. Performance of Contract Pending Final Resolution by the Court.**
The Service Provider will comply with the DISID'S decision and proceed diligently with performance of this Agreement pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, this Agreement, except where the Service Provider claims a material breach of this contract by DISID. However, if the Director of DISID determines in writing that continuation of services under this Agreement is essential to the public's health or safety, then the Service Provider will proceed diligently with performance of the contract notwithstanding any claim of material breach by DISID.

SECTION XVII.

MANDATORY REPRESENTATIONS BY SERVICE PROVIDER

- A. Ethical Standards.**
With respect to this procurement and any other contract that the Service Provider may have, or wish to enter into, with DISID, the Service Provider represents that it has not knowingly influenced, and promises that it will not knowingly influence, any government employee to breach any of the ethical standards set forth in the Guam Procurement Law and in any of the Guam Procurement Regulations.
- B. Prohibition Against Gratuities and Kickbacks.**
With respect to this procurement and any other contract that the Service Provider may have or wish to enter into with DISID, the Service Provider represents that he/she/it has not violated, is not violating, and promises that he/she/it will not violate the prohibition against gratuities and kickbacks set forth in the Guam Procurement Regulations.
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C. **Prohibition Against Contingent Fees.**

The Service Provider represents that he has not retained any person or agency upon an agreement or understanding for a percentage, commission, brokerage, or other contingent arrangement, except for retention of bona fide employees or bona fide established commercial selling agencies, to solicit or secure this contract or any other contract with the government of Guam.

D. **Prohibition of Employment of Sex Offenders.**

Pursuant to 5 G.C.A. § 5253: No person convicted of a sex offense under the provisions of 9 GCA Chapter 25, or an offense as defined in GCA Chapter 28 Article 28, on Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the government of Guam, will work for his employer on the property of the government of Guam other than a public highway;

The Service Provider warrants (1) that no person providing services on behalf of the Service Provider has been convicted of a sex offense as set forth in the preceding subsection; and (2) that if any person providing services on behalf of the Service Provider is convicted of a sex offense under the provisions of 9 GCA Chapter 25 or 9 GCA Chapter 28 Article 2, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

For the purposes of this "Prohibition of Employment of Sex Offenders Clause" in the event the Service Provider is providing services that involve direct contact with the DISID consumers, customers or potential eligible receivers of DISID community behavioral health wellness services all locations where there is contact with those individuals is considered for purposes of this clause in this contract "property of the government of Guam".

E. **Wage and Benefit Compliance – Service Providers Providing Services.**

The Service Provider will comply with 5 GCA § 5801 et. seq., and with regard to all persons it employs whose purpose in whole or in part is the direct delivery of services contracted for with DISID in this procurement, will pay such employees in accordance with the Wage Determination for Guam and the Northern Marianas Islands issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct deliverance of deliverables to the government of Guam. The Service Provider will be responsible for flowing down this obligation to its subcontractors.

The Wage Determination most recently issued by the U.S. Department of Labor at the time this contract is awarded to the Service Provider will be used to determine wages and benefits which will be paid to employees pursuant to this clause.

The Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date will apply to any renewal terms of this agreement.

The Service Provider agrees that in addition to the Wage Determination detailed above, health and similar benefits for employees having a minimum value as detailed in the Wage Determination issued and promulgated by the U.S. Department of Labor will apply. The Service Provider will pay a minimum of ten (10) paid holidays per annum per employee.

The Service Provider will flow the Wage and Benefit Compliance clauses above through to any of its subcontractor under this agreement.

The Service Provider agrees that any violation of the Service Provider's obligations or its subcontractors obligations as set forth in this Section "Wage and Benefit Compliance Service Providers Providing Service's Clause" will be investigated by the Guam Department of Labor and may include a monetary penalty assessment by the Guam Department of Labor of no less than One Hundred Dollars (\$100.00) per day, and no more than One Thousand Dollars (\$1,000.00) per day, until such time as a violation has been corrected, as well as the payment of all back wages and benefits due.

In addition to any and all other breach of contract actions the DISID may have under this procurement, in the event there is a violation in the process set forth in the preceding subsection, the Service Provider may be placed on probationary status by the Director of DISID, for a period of one (1) year. During the probationary status, the Service Provider will not be awarded any contract by any instrumentality of the government of Guam. The Service Provider if it is placed on probationary status or has been assessed a monetary penalty pursuant to this "Wage and Benefit Compliance Service Providers Providing Services Clause" may appeal such penalty or probationary status to the Superior Court of Guam as set forth in 5 GCA § 5804.

The Service Provider's Declaration of Compliance with Wage Determination with the attached most recent Wage Determination for Guam and the Northern Marianas Islands issued and promulgated by the U.S. Department of Labor is applicable to this contract.

The Service Provider agrees to provide upon written request by the DISID written certification of its compliance with its obligations under this "Wage and Benefit Compliance Service Providers Providing Services Clause" as part of each invoice, along with the names of any employees, their positions, and detailed wage and benefits paid in

keeping with this section. Additionally, upon request by the DISID, the Service Provider will submit source documents as to those individuals that provide direct services in part or whole under this contract and its payments to them of such wages and benefits.

F. Privacy Rights.

The Service Provider will comply with all Federal and Guam laws and regulations as to the privacy rights of individuals and as to any records and information of individuals providing services under this contract, including but not limited to the following:

1. **Health Insurance Portability and Accountability (HIPA)**
The Service Provider will comply with the Health Insurance Portability and Accountability Act (HIPAA of 1996, P.L. 104-1991) and the Federal "Standards for Privacy of Individually Identifiable "Health Information" promulgated under 45 CFR Part 160 and Part 164, Subparts A and E.
2. The Service Provider will ensure information obtained directly or indirectly from a recipient client under this contract will be kept confidential and not released in a form that identifies the person without informed consent of the person, or of his or her legal representative, unless the disclosure is required by court order or for program monitoring by authorized Federal, or Guam monitoring agencies. (Ref. 45 CFR 1321.51 and 42 CFR Part II). Privacy Rule Standards for Privacy of Individually Identifiable Health Information, Ref. 45 CFR Part 160 and Part 164, Subparts A and E.

G. Confidentiality.

Any information provided to or developed by the Service Provider in the performance of this Agreement will be kept confidential and will not be made available to any individual or organization by the Service Provider without the prior written approval of the DISID.

H. Technology Access For Blind or Visually Impaired.

The Service Provider acknowledges that no government funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired.

I. Equal Opportunity Non-discrimination

DISID is an equal opportunity provider and employer and strictly adheres to a policy on non-discrimination activities in compliance with all applicable Federal and Guam laws in its labor practices and carries out all government programs in such a manner that no person will on the grounds of race, religion, color, sex, including sexual harassment and orientation, national origin, age, physical or mental disability, marital status or political affiliation and retaliation be excluded from participating, be denied the benefits of, or be subject to discrimination with

respect to any program or activities. See Title VI of the Civil Rights Act of 1964 as amended, and Presidential Executive Order 11246, as amended and other relevant Federal and Territorial requirements, and Governor Guam Executive Order 2006-16.

Service Provider will assure that no person will on the grounds of race, religion, color, sex including sexual harassment and orientation, national origin, age, physical or mental disability, marital status or political affiliation and retaliation be excluded from participation in, be denied benefit of, or otherwise be subjected to discrimination under any program or activity under this Agreement.

Additionally, in keeping with Section II (4) of Governor of Guam E.O. 2006-16, Service Provider will meet the following contractual requirements:

1. In the event it is receiving ten thousand dollars (\$10,000) or have more than fifty (50) or more employees, it will develop an equal opportunity affirmative action plan, using standard guidelines established by the Guam Department of Labor, within sixty (60) days after the Effective Date of this contract. Furthermore, within ninety (90) days of the award and annually thereafter for the duration of the contract, Service Provider under this section will submit affirmative action reports to the Guam Department of Labor.
2. In the event it is receiving less than ten thousand dollars (\$10,000) or has less than fifty (50) employees, it will not be required to develop an equal opportunity affirmative action plan, except, however, Service Provider will be strictly prohibited from discrimination on the basis of race, religion, color, sex, including sexual harassment and orientation, national origin, age, physical or mental disability, marital status or political affiliation and retaliation.
3. Service Provider will flow through the requirement in this Section V Equal Opportunity Non-discrimination to its subcontractors.

Service Provider will comply with all Federal and Guam laws and regulations including the Guam Department of Labor laws and regulations and (new) P.L. 33-64 Guam Employment Non-discrimination in Employment Act of 2015 codified as 22 GCA Chapter 5 Article 2, which additionally includes as unlawful employment practice or unlawful discrimination grounds race, sex (including gender identity or expression), age, religion, color, honourably discharged veteran and military status, sexual orientation, or ancestry. The definitions for "sexual orientation", "gender identity or expression" and "veteran and military status" as set forth in 22 GCA §5202(h), (l) and (j). A Service Provider that is a "religious employer" in keeping with P.L. 33-64 §5(a) is exempt from the religious discrimination provisions of Title VII of the Civil Rights Act of 1964 as set forth in §5 in more detail. In the event Service Provider is part of Government of Guam (new) P.L. 33-64 is codified at 4 GCA Chapter 4, §4101(a) as amended.

If Service Provider is found not to be in compliance with the requirements in this Section V Equal Opportunity Non-discrimination during the life of this Agreement, the Service Provider agrees to make appropriate steps to correct these deficiencies.

- J. Records Discrimination Against Status Offenders Prohibited.**
The Service Provider acknowledges that no private entity that receives government of

Guam funding, either local or federal funds, for any of its programs may, solely on the basis of conviction of a status offense, discriminate against any person who would otherwise be eligible. P.L. 30-168 (effective 7/16/10) codified at § 20120 of Article 1, Chapter 20 of Title 19, Guam Code Annotated.

K. Restricting the Use of Mobile Phones While Driving a Vehicle and Providing for the Public Education Requirements Regarding Such Restrictions.

The Service Provider will ensure compliance with relative to the restrictions on the use of mobile phones while driving. P.L. 31-194

L. Drug and Smoke-Free Workplace.

The Service Provider will ensure compliance with Federal and local drug and smoke-free workplace laws and requirements. [Federal Drug-Free Workplace Act of 1988, the Governor's Circular No. 89-26 (Governor's Policy Statement Establishing a Drug-Free Workplace) and Clean Indoor Air Act of 1992, P.L. 21-139, Title 10 GCA, Chapter 90].

M. Social Security Number Confidentiality Act.

The Service Provider will ensure compliance relative to preventing the inappropriate disclosure and misappropriation of social security numbers. P.L. 28-95, Article 7, Chapter 32, Title 5, Guam Code Annotated.

N. Employment of Individuals with Serious Disabilities; P.L. 26-109 Section 2, §41210(b), Article 2, Chapter 41, Division 5, Title 17 of the Guam Code Annotated.

The Service Provider will comply with the provision of this mandate with emphasis on the employment of two percent (2%) of its workforce with serious disabilities in coordination with the Division of Vocational Rehabilitation Administrator, Department of Integrated Services for Individuals with a Disability (DISID) for placement. In the event the Service Provider is unable to employ due to the lack of individuals with disabilities who are able to work, the Service Provider will utilize funds for the purchase of supplies produced by non-profit organizations employing individuals with disabilities. Efforts to comply with this specification will be documented by the Service Provider and is subject to review and inspection by the DISID.

SECTION XVIII.

ASSIGNMENT, SUCCESSORS AND ASSIGNS

Neither party may assign or otherwise transfer this Agreement or any of the rights that it grants without the prior written consent of the party. Any purported assignment in violation of the preceding sentence will be void and of no effect. This contract will be binding upon the parties' respective successors and permitted assigns.

SECTION XIX.
SUBCONTRACTING

The Service Provider will not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the DISID.

SECTION XX.
STATUS OF SERVICE PROVIDER

The Service Provider and its agents and employees are independent contractors performing professional services for the DISID and are not employees of the DISID. The Service Provider and its agents and employees will not accrue leave, retirement, insurance, bonding, use of the DISID vehicles, or any other benefit afforded to employees of the DISID as a result of this Agreement. The Service Provider acknowledges that all sums received hereunder are reportable by the Service Provider for tax purposes, including without limitation, self-employment and business income tax. The Service Provider agrees not to purport to bind the DISID unless the Service Provider has express written authority to do so, and then only within the strict limits of that authority.

SECTION XXI.
GENERAL COMPLIANCE WITH LAWS

The professional services, deliverables and materials under this Agreement will comply with all applicable Federal and Guam laws and regulations. The Service Provider will maintain all licenses and permits during all times pertinent to this Agreement. The Service Provider is responsible for payment of all taxes under this Agreement. In the event the contract sets forth key personnel positions of stated experiences and training, the Service Provider agrees to maintain those individuals and or positions at all times pertinent to the contract.

SECTION XXII.
FORCE MAJEURE

The Service Provider and/or the DISID (other than its payment obligation) will be excused from performance under this Agreement for any period that the Service Provider or the DISID is prevented from performing any services in whole or in part as a result of acts of God, typhoons, earthquakes, floods, epidemics, fire, quarantine restrictions, strikes, freight embargoes, unusually serious weather, or any other event, matter or thing, wherever occurring, which will not be within the reasonable control of the party invoking the section (each of the foregoing deemed a ("Force Majeure")), provided that the Service Provider or the DISID have prudently and promptly acted to take any and all reasonably necessary preventive and/or corrective steps that are within the Service Provider's or the DISID'S control to ensure that the Service Provider or the DISID can promptly perform. Such non-performance (collectively, a Force Majeure Event)

will not be deemed a breach of the Agreement. This clause will not relieve the Service Provider of responsibility for developing and implementing all prudent contingency and disaster rehabilitative measures. Subcontractor interruptions will not be considered a Force Majeure Event unless agreed upon by both parties. The party delayed by a Force Majeure Event will immediately notify the other party by telephone (to be confirmed in writing, via hand delivery return receipt, within FIVE (5) days of the inception of such delay) of the occurrence of a Force Majeure Event and describe in reasonable detail the nature of the Force Majeure Event, all preventive and corrective steps taken, how it affects performance, and the anticipated duration of the inability to perform, and will resume performance of its obligations as soon as possible after the Force Majeure condition no longer exists. The parties will meet to discuss and determine a revised timetable for completion of any Services delayed by a Force Majeure Event under this Agreement.

SECTION XXIII.

SEVERABILITY

The provisions of the contract will be deemed severable, and the unenforceability of any one or more provisions will not affect the enforceability of any other provisions. In addition, if any provision of this contract is declared unenforceable, the parties will substitute an enforceable provision that to the maximum extent possible in accordance with applicable law, preserves the original intentions and economic positions of the parties.

SECTION XXIV.

ENFORCEMENT OF AGREEMENT

A party's failure to require strict performance of any provision of this Agreement will not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of that party's rights under this Agreement will be effective to waive any other rights.

SECTION XXV.

NO WAIVER

No failure or delay by either party in exercising any right, power or remedy will operate at a waiver of such right, power or remedy, and no waiver will be effective unless it is in writing and signed by the waiving party. If either party waives any right, power or remedy, such waiver will not waive any successive or other right, power or remedy the party may have under this contract.

SECTION XXVI.

APPLICABLE LAW

The laws of Guam will govern this Agreement, without giving effect to its choice of laws provisions. Venue will be proper only in a Guam court of competent jurisdiction. By execution of

this Agreement, the Service Provider acknowledges and agrees to the jurisdiction of the courts of Guam over any and all lawsuits arising under or out of any term of this Agreement.

SECTION XXII.

AMENDMENT

This Agreement will not be altered, changed or amended except by instrument in writing executed by the parties.

SECTION XXVIII.

MERGER

This Agreement incorporates all the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written agreement. No prior agreement or understanding, oral or otherwise, of the parties, or their agents will be valid or enforceable unless embodied in this this Agreement.

SECTION XXIX.

INCORPORATION AND ORDER OF PRECEDENCE

The request for proposal and the Service Provider's proposal are incorporated by reference into this Agreement and are made part of this Agreement. In the event of any conflict among these documents, the following order or precedence will apply:

1. Any contract amendment(s), in reverse chronological order.
2. This Agreement itself
3. The Request for Proposal.
4. The Service Provider's Best and Final Offer(s), in reverse chronological order.
5. The Service Provider's proposal.

SECTION XXX.

PATENT, COPYRIGHT, TRADEMARK AND TRADE SECRET INDEMNIFICATION

A The Service Provider will defend at its own expense, the government of Guam and its agencies against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark in the United States or Guam, and will pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against a procuring agency based upon the Service Provider's trade secret infringement relating to any product or service provide under this Agreement, the Service Provider agrees to reimburse the government of Guam for all costs, attorneys' fees and the amount of the judgment. To qualify for such a defence and/or payment, the government of Guam will:

1. Give the Service Provider prompt written notice of any claim.
2. Allow the Service Provider to control the defence or the settlement of the claim.

3. Cooperate with the Service Provider in a reasonable way to facilitate the defence or settlement of the claim.
- B. If any product or service becomes, or in the Service Provider's opinion is likely to become the subject of a claim of infringement, the Service Provider will at its option and expense:
1. Provide a procuring agency the right to continue to using the product or service.
 2. Replace or modify the product or service so that it becomes non-infringing.
 3. Accept the return of the product or service, less the unpaid portion of the purchase price any other amounts due the Service Provider. The Service Provider's obligations will be void as to any product or service modified by the procuring agency to the extent such modification is the cause of the claim.

SECTION XXXI.
APPROVAL OF SERVICE PROVIDER PERSONNEL

Personnel proposed in the Service Provider's written proposal to the DISID are considered material to any services or work performed under this Agreement. No changes in personnel will be made by the Service Provider without the prior written consent of the DISID.

Replacement of any of the Service Provider's personnel, if approved will be with equal ability, experience and qualifications. The Service Provider will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project or program immediately upon receiving assignments. Approval of replacement personnel will not be unreasonably withheld. DISID will retain the right to request the removal of any of the Service Provider's personnel at any time. A penalty of ten percent (10%) of the monthly invoice amount will be imposed for every month the Service Provider does not have the staff.

SECTION XXXII.
SURVIVAL

The sections titled Indemnification and Patent, Copyright, Trademark and Trade Secret Indemnification will survive the expiration of this Agreement. Software licenses, leases, maintenance and other unexpired agreements that were entered into under the terms and conditions of this Agreement will survive this Agreement.

SECTION XXIII.
PROGRAM FRAUD AND FALSE AND FRAUDULENT STATEMENT AND RELATED ACTS

Service Provider acknowledges that 5 GCA, Chapter 37 False Claims and Whistle-blower Act applies to Service Provider's action pertaining to this Agreement. See P.L. 116-34 Chapter III § 20 (lapsed into law August 24, 2018, codified at 5 GCA Chapter 37).

(Signature follow on the next page)

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date indicated by their respective names.

SERVICE PROVIDER:

GOVERNMENT OF GUAM:

CATHOLIC CHARITIES OF THE DIOCESE OF
AGANA, dba CATHOLIC SOCIAL SERVICES

DEPARTEMENT OF INTEGRATED SERVICES
FOR INDIVIDUALS WITH DISABILITIES

BY: Diana B. Calvo
Diana B. Calvo
Executive Director

BY: Rita Sotomayor
Rita Sotomayor
Director (Acting)

Date: 9/20/2021

Date: 09/20/2021

CERTIFIED FUNDS AVAILABLE:

CLEARED PER BBMR'S REVIEW:

BY: Rita Sotomayor
Rita Sotomayor
Certifying Officer

9/24/21
BY: Lester L. Carlson Jr. **CLEARED PER
BBMR'S REVIEW**

Date: 09/20/2021
Annual Amount: \$484,555.91 (5602A222601GA201-230)
dm

Director
SEP 24 2021
Date: _____

Period Covering: 10/01/2021 to 09/30/2022
Subject to appropriation, allocation and availability of funds

RECEIVED

SEP 21 2021
Bureau of Budget and
Management Research

APPROVED AS TO LEGALITY AND FORM:

BY: Levin Tatiano Camacho
Levin Tatiano Camacho
Attorney General of Guam
Date: 30 Sep 21

APPROVED:
Lourdes A. Lean Guerrero
Lourdes A. Lean Guerrero
Governor of Guam
Date: 10/6/2021



CATHOLIC CHARITIES OF THE DIOCESE OF
AGANA, dba CATHOLIC SOCIAL SERVICES

BY: Diana B. Calvo
Diana B. Calvo
Executive Director

Date: 9/20/2021

CERTIFIED FUNDS AVAILABLE:

BY: Rita Sotomayor
Rita Sotomayor
Certifying Officer

Date: 09/20/2021
Annual Amount: \$484,555.91

Period Covering: 10/01/2021 to 09/30/2022
Subject to appropriation, allocation and availability of funds

DEPARTEMENT OF INTEGRATED SERVICES
FOR INDIVIDUALS WITH DISABILITIES

BY: Rita Sotomayor
Rita Sotomayor
Director (Acting)

Date: 09/20/2021

CLEARED PER BBMR'S REVIEW:

BY: _____
Lester L. Carlson Jr.
Director

Date: _____

APPROVED AS TO LEGALITY AND FORM:

BY: _____
Levin Tatiano Camacho
Attorney General of Guam

Date: _____

APPROVED:

Lourdes A. Leon Guerrero
Governor of Guam

Date: _____