

BUREAU OF DRUG AND ALCOHOL PROGRAMS TERMS AND CONDITIONS

IV. **Appendices:** The following attached Appendices are incorporated into and made a part of this contract:

1. Appendix A (Drug and Alcohol Specific Services Requirements)
2. Appendix B (Cost Reimbursement Payment Provisions)
3. Appendix C (Fee-For-Service Payment Requirements)
4. Appendix D (Audit Requirements)
5. Appendix E (Lobbying Certification Form)

V. **Additional Contractual Provisions:**

- A. The Contractor agrees to accept full responsibility for the performance of the terms of this agreement, including work performed by its contractors.
- B. The Contractor acknowledges the rights of the Department, SCA and the public as set forth in this agreement. The Department and the SCA reserve the right to reject or require modification of this agreement at any time.
- C. The Contractor is required to utilize a cost allocation methodology when providing more than one service purchased by the SCA. The cost allocation methodology used by the Contractor must be kept on file by the Contractor and is subject to review and approval by BDAP or the SCA.
- D. The Contractor is required to adhere to all procedures established by the Department and the SCA to determine liability and collect payment for clients who are funded in whole or in part by the SCA.
- E. The Contractor must maintain books, records, documents, and, utilize generally accepted accounting principles, procedures, and practices sufficient to reflect properly all costs incurred and anticipated for performance of the Agreement.
- F. The Contractor must maintain a separate set of D&A records as follows: client service billings, accounting ledgers, journals, invoices, canceled checks, bank receipts, and other documents which evidence revenue and income and substantiate expenses. These records must properly reflect all of the following cost features: direct and indirect costs of labor, materials, equipment, and supplies; cost determinations for fees charged for services provided; and other costs and expenses for which funds have been provided.
- G. The Contractor must keep their records for four years after termination of the Agreement. An Agreement may extend for more than one year. Records and original supporting documents must be retained until disposition of any litigation, claims, or exceptions or four years from the termination of the Agreement, whichever occurs later.

- H. Additionally, other regulations may supercede the aforementioned retention requirements, such as Health Insurance Portability and Accountability Act (HIPAA). At a minimum, HIPAA requires all client-identifying information to be retained for a period of six years after final service payment. The Contractor should consult HIPAA regulations for complete compliance requirements.
- I. The Contractor is required to adhere to Federal Statutory language (42 CFR Part 54), on Charitable Choice provisions. Charitable Choice applies to both prevention and treatment services; however, funding cannot be expended for inherently religious activities such as worship, religious instruction, or proselytization. More specifically, the Contractor shall provide notice to its clientele regarding their right to be referred to alternative treatment services.

The matrix that follows provides the appropriate appendices to this agreement that are applicable according to the type of service provided and the payment structure under which the service is purchased.

	Cost Reimbursement Contracts	Fee-For-Service Contracts
Drug and Alcohol Specific Services	Appendix A- Drug and Alcohol Specific Services Requirements Appendix B- Cost Reimbursement Payment Provisions Appendix D- Audit Requirements Appendix E- Lobbying Certification Form	Appendix A- Drug and Alcohol Specific Services Requirements Appendix C- Fee for Service Payment Requirements Appendix E- Lobbying Certification Form
Support Services	Appendix B- Cost Reimbursement Payment Provisions	Appendix C- Fee for Service Payment Requirements

APPENDIX A

APPENDIX A - DRUG AND ALCOHOL SPECIFIC SERVICES REQUIREMENTS

- (1) All reporting requirements specified by the SCA, Department or required for federal reporting purposes.
- (2) All applicable requirements from the DOH/SCA Grant Agreement, as well as BDAP's State Plan, and the Fiscal, Treatment and Prevention Manuals, and any subsequent revisions, when applicable.
- (3) All audit requirements pertaining to Cost-Reimbursement service providers as per BDAP Fiscal Manual guidelines.
- (4) Fixed asset requirements pertaining to Cost-Reimbursement service providers as per BDAP Fiscal Manual guidelines.
- (5) All client confidentiality requirements identified in BDAP's Treatment Manual, where applicable.
- (6) The terms and conditions regarding travel, lodging and subsistence rates as set forth in the Office of Administration's Management Directive 230.10, Rev. 11/01/00 and any subsequent revisions thereto. If the lodging rates set by the Management Directive are not available to the Contractor, the lowest price available through 3 telephone bids will be acceptable. However, if prevailing county travel policies provide for reimbursement of travel, lodging and subsistence costs at a lower rate than the state rate, then the lower rate shall govern. If prevailing collective bargaining unit policies provide for reimbursement of these items at a different rate than the state or county rate, then the terms of the bargaining unit shall prevail. If the Contractor attends a D&A conference or training event where the hotel is the site of the event, then the reimbursement rate for lodging costs incurred for attendance at the event shall take precedence over both the Management Directive rate and the county rate. In those instances when lodging cannot be secured within the established lodging rate allowance, employees may exceed the allowance if written justification is provided on the travel form (e.g., closest lodging facility to work site – next hotel 25 miles away; no rooms available at hotel with lowest rate; inclement weather; lateness of hour).

No subsistence payments shall be made to the Contractor for non-overnight travel, except as specifically provided for in labor agreements.

All employee travel reimbursement must be approved and signed by a duly designated executive, official or supervisor of the Contractor. Copies of all authorized expense reports (travel vouchers) must be on file for auditing purposes. These reports must be signed by the employee and must show the purpose of travel, departure and destination

points, actual miles traveled each day, and expenses incurred, such as parking, meals, lodging and tolls. Itemized receipts for travel and subsistence must be on file to support reimbursement.

Allowances for the reimbursement of subsistence costs incurred by the Contractor are not flat allowances; only amounts actually expended may be claimed.

Management Directive 230.10 may be accessed via the internet at <http://www.oa.state.pa.us> under Policies and Procedures, Management Directives.

- (7) The requirement that the Contractor ensure key staff are available for BDAP Quality Assurance Assessment Reviews and follow-up visits as required by the Department.
- (8) The requirement that all information obtained during the period of this contract by the Contractor through work governed by the contract shall be made available to the Department and SCA immediately upon demand.
- (9) The requirement that all treatment service providers with whom it subcontracts shall stipulate that all appropriate staff receives six hours of confidentiality training. Appropriate staff includes project directors, facility directors, clinical supervisors, counselors and counselor assistants. The Contractor shall document all required training and shall ensure that all individuals receive confidentiality training within 365 days of hire.
- (10) Fee-Splitting – The Contractor agrees that no employee, board member, or representative of the Contractor, either personally or through an agent, shall solicit the referral of clients to any facility in a manner that offers or implies an offer of rebate to persons referring clients or other fee-splitting inducements. No person or entity involved in the referral of clients may receive payment or other inducement by a facility or its representatives.
- (11) Federal Lobbying Certification and Disclosure Requirements whereby the Contractor certifies, to the best of Contractor’s knowledge and belief, that:
 - (a) No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- (b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, Contractor shall complete and submit Standard Form-LLL (Appendix E), "Disclosure of Lobbying Activities," in accordance with its instructions.
- (c) Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

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

- (12) Block grant prohibition provisions pursuant to the Federal Substance Abuse Prevention and Treatment Block Grant (SAPTBG) and in accordance with 42 U.S.C. Section 300x-31 and 45 CFR Section 96.135, whereby none of this contract's funds shall be used to:
 - (a) Provide inpatient hospital services unless it is determined, in accordance with guidelines issued by the Secretary of Health and Human Services, that such treatment is a medical necessity for the individual involved and that the primary diagnosis of the individual is substance abuse, the services can be reasonably expected to improve the individual's condition or level of functioning and the individual cannot be effectively treated in a community-based, non-hospital, residential program of treatment and the hospital's substance abuse program follows national standard of substance abuse professional practice. The daily rate of payment provided to the hospitals for providing the services to the individual

shall not exceed the comparable daily rate provided for community-based, non-hospital, residential programs of treatment for substance abuse; and that payment is only for services that are medically necessary, that is, only for those days that the patient cannot be safely treated in a residential, community-based program.

- (b) Make cash payments to intended recipients of health services;
 - (c) Purchase or improve land, purchase, construct or permanently improve (other than minor remodeling if provided for in the line item budget of this contract) any building or other facility, or purchase major medical equipment. (No minor equipment may be purchased unless the line item budget specifically provides for such purchase);
 - (d) Satisfy any requirement for the expenditure of non-Federal funds as a condition for receipt of Federal funds;
 - (e) Provide financial assistance to any entity other than a public or non-profit private entity; or
 - (f) Provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines in writing that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for AIDS. (In addition, state law, Controlled Substance, Drug Device and Cosmetic Act, 35 P.S. Section 780-101 et seq., prohibits providing individuals with hypodermic needles or syringes.)
- (13) Pro-Children Act of 1994 – Contractor shall agree to comply with the following certification required by P.L. 103-227 Sections 1041-1044, 20 U.S.C. Sections 6081-6084, known as the Pro-Children Act of 1994, which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The Contractor certifies that it will comply with the requirements of the Pro-Children Act of 1994 and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Pro-Children Act of 1994. The Contractor agrees that it will require that the language of this certification be included in any subcontracts which contain provisions for children’s services and that all subcontractors shall certify accordingly.
- (14) Other Federal Funds – If the Program-Funded Contractor is contributing toward the general contract cost, the Contractor certifies that the Federal funds to be used under this Agreement do not replace or supplant in any way, State or local funds for already

existing services. The Contractor further certifies that the services to be provided under this Agreement are not already available without cost. The Contractor further certifies that the addition of Federal funds will result in a commensurate program expansion.

(15) Equal Employment Opportunity

- (a) Contractor shall not discriminate against any employee, applicant for employment, independent contractor or any other person because of race, color, religious creed, ancestry, national origin, age, or sex. Contractor shall take affirmative action to insure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, or sex. Such affirmative action shall include, but is not limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. Contractor shall post in conspicuous places, available to employees, agents, applicants for employment, and other persons, a notice to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.
- (b) Contractor shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age, or sex.
- (c) Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Contractor.
- (d) It shall be no defense to a finding of noncompliance with this nondiscrimination clause that Contractor had delegated some of its employment practices to any union, training program, or other source of recruitment, which prevents it from meeting its obligations. However, if the evidence indicates that the Contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanction.
- (e) Where the practices of a union or training program or other source of recruitment will result in the exclusion of minority group persons, so that Contractor will be unable to meet its obligations under this nondiscrimination clause, Contractor shall then employ and fill vacancies through other nondiscriminatory employment procedures.

- (f) Contractor shall comply with all State and Federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Contractor's noncompliance with the nondiscrimination clause of this Agreement or with any such laws, this Agreement may be terminated or suspended, in whole or in part, and Contractor may be declared temporarily ineligible for further Commonwealth contracts, and other sanctions may be imposed and remedies invoked.
- (g) Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by, the Department and the Office of Administration, Bureau of Affirmative Action, for purposes of investigation to ascertain compliance with the provisions of this clause. If Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Department or the Bureau of Affirmative Action.
- (h) Contractor shall actively recruit minority sub-contractors or sub-contractors with substantial minority representation among their employees.
- (i) Contractor obligations under this clause are limited to the Contractor's facilities within Pennsylvania, or where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

(16) Equal Opportunity for the Handicapped

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

(17) Provisions Concerning the Americans with Disabilities Act

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

APPENDIX B

APPENDIX B - COST REIMBURSEMENT PAYMENT REQUIREMENTS

- (A) names of the parties involved
- (B) the term of the contract
- (C) the type of service purchased
- (D) the cost of services to be rendered
- (E) a Work Statement, to include:
 - (i) A precise statement of objectives (what the SCA expects to gain/accomplish through the contractor)
 - (ii) Measurable/Definitive deliverables in terms of:
 - a.) Number of clients or participants served
 - b.) Units of service provided
- (F) a budget that defines staffing, operating, and fixed asset costs for the delivery of services rendered

APPENDIX C - FEE FOR SERVICE (FFS) PAYMENT REQUIREMENTS

- (1) names of the parties involved
- (2) the term of the contract
- (3) the type of service purchased
- (4) a definition for a unit of service
- (5) the rate of reimbursement per unit to be applied for services rendered

APPENDIX D – AUDIT REQUIREMENTS**AUDIT COVERAGE**

The SCA provides federal and state financial assistance to a variety of entities. Audit requirements may be either a federal mandate or a Department mandate. The applicable audit requirements are determined according to the source(s) of the agreement's funding. If the agreement is funded by federal funds only or by a combination of federal and state funds, and the SCA expends a total of \$500,000 or more in federal funds during its fiscal year received from all sources, the audit requirement is federally mandated and prescribed by the *Single Audit Act, as amended, 31 U.S.C. 7501 et seq.*; *U.S. Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as amended*; and any amendment to such other applicable law or regulation which may be enacted or promulgated by the federal government. If the agreement is funded by state funds only and the SCA expends \$300,000 or more in state funds, the audit requirement is Department mandated, as prescribed in the agreement's audit requirements appendix, and in accordance with the provisions of GAGAS issued in the U.S. General Accounting Office's *Government Auditing Standards* ("Yellow Book"), latest revision as of the time of the audit.

AUDIT SOURCE DOCUMENTS

Audit requirements vary according to the type of organization and the type (federal or state) and amount of funding. The following documents are the primary sources of information for audit requirements:

OMB Circular A-110, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations (and any subsequent revisions)

OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations

Government Auditing Standards ("Yellow Book"), U.S. General Accounting Office

The Single Audit Act of 1984 and its Implementation within the Commonwealth of Pennsylvania, Office of the Budget, Commonwealth of Pennsylvania

AUDIT SOURCE DOCUMENT AVAILABILITY

Copies of OMB Circulars and Government Auditing Standards can be obtained on-line at:
<http://www.whitehouse.gov/omb/circulars/index.html>

To obtain circulars that are not on-line, call the United States Government, Office of Management & Budget's information line at (202) 395-3080.

The Single Audit Act of 1984 and Its Implementation within the Commonwealth of Pennsylvania can be obtained from:

Commonwealth of Pennsylvania
 Office of the Budget, Bureau of Audits
 Bell Tower, Sixth Floor, 303 Walnut Street
 Harrisburg, Pennsylvania 17101
 Telephone: (717) 783-9120 Fax: (717) 783-0361

TYPES OF AUDITS

The following chart outlines the types of audits that are required for the Contractors. The requirements apply to local government agencies, non-profit and for-profit organizations.

DETERMINATION OF APPLICABLE AUDIT REQUIREMENTS

Contractor	Expends \$500,000 or more of total federal funds	Expends less than \$500,000 of total federal funds from all sources AND \$300,000 or more of state funds	Expends \$300,000 or more of state funds	Expends less than \$500,000 in federal funds and less than \$300,000 in state funds
Local Government	Federally Mandated OMB A-133 Audit based on Contractor's fiscal year	Department Mandated (Program-Specific) Yellow Book Audit based on 12 month period of the agreement	Department Mandated (Program-Specific) Yellow Book Audit based on 12 month period of the agreement	No audit required
Non-Governmental Non-Profit Organization (includes non-profit institutions of higher education and hospitals)	Federally Mandated OMB A-133 Audit based on Contractor's fiscal year	Department Mandated (Program-Specific) Yellow Book Audit based on 12 month period of the agreement	Department Mandated (Program-Specific) Yellow Book Audit based on 12 month period of the agreement	No audit required

For-Profit Entity	No audit required	Department Mandated (Program-Specific) Yellow Book Audit based on 12 month period of the agreement	Department Mandate (Program-Specific) Yellow Book Audit based on 12 month period of the agreement	No audit required
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NO AUDIT IS REQUIRED IF EITHER OF THE FOLLOWING APPLY:

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

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

AUDIT RESPONSIBILITIES

To ensure compliance with the Single Audit Act of 1984, Amended 1996, and OMB Circular A-133, all payments of federal and state financial assistance made by Commonwealth agencies to local governments and other sub recipients must be identified by federal and state dollars expended and related federal and state financial assistance program names and numbers. [Catalog of Federal Assistance (CFDA) number for federal funds].

ALL contracts must identify the amounts of federal and state funding provided by them. This identification must be made in accordance with Management Directive 305.14 Amended, *Identifying Payments to Local Governments and Other Sub recipients*. This identification must include the breakdown of federal and state dollars provided and the related federal and state financial assistance program name and number. In regard to Fee-For-Service (FFS) contracts, this information may be submitted at the end of the agreement period but must be submitted to their contractors within 60 days of the end of the SCA’s 12-month fiscal period.

The Contractor shall prepare a Corrective Action Plan (CAP) to address all findings of noncompliance or internal control weaknesses disclosed in the audit report and submit it to the SCA. For each finding noted, the CAP must include the following:

1. A description of the finding;
2. Specific steps to be taken to correct the situation or specific reasons why corrective action is not necessary;
3. A timetable for performance of the corrective action steps; and,
4. A description of monitoring to be performed to ensure that the steps are taken. The CAP must be submitted with the audit report.

GENERAL AUDIT PROVISIONS

Auditor Selection - The contractor is responsible for obtaining the necessary audit and securing the services of a certified public accountant or other independent governmental auditor who meets the independence standards specified in generally accepted governmental auditing standards.

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

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

Records Retention - The contractor is required to maintain records of state and federal awards. The contractor shall preserve all books, records and documents related to this agreement for a minimum of four years from the date of final payment under this agreement; or until all findings, questioned costs or activities have been resolved to the satisfaction of the Commonwealth; or unless the agreement provides for a shorter period; or DOH agrees in writing to a shorter period. The SCA shall provide federal and state agencies or their designee's access to such books, records and documents for inspection, audit or reproduction.

APPENDIX E

**APPENDIX E –LOBBYING CERTIFICATION FORM
(Certification for Contracts, Grants, Loans, and Cooperative Agreements)**

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

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.

SIGNATURE: _____

TITLE: _____

DATE: _____

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

APPROVED BY OMB

(See reverse for public burden disclosure.)

0348-0046

<p>1. Type of Federal Action:</p> <p>a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p>a. bid/offer/application b. initial award c. post-award</p>	<p>3. Report Type:</p> <p>a. initial filing b. material change</p> <p>For Material Change Only: year _____ quarter date of last report</p>
<p>4. Name and Address of Reporting Entity: Prime Subawardee Tier _____ if known:</p> <p>Congressional District, if known</p>	<p>5. If Reporting entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District, if known</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description</p> <p>CFDA Number, if known</p>	
<p>8. Federal Action Number, if known</p>	<p>9. Award Amount, if known</p> <p>\$</p>	
<p>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):</p> <p>(Attach Continuation Sheets)</p>	<p>b. Individuals Performing Services (including address if different from No. 10a)</p> <p>SF-LLL-A, if necessary</p>	

<p>11. Amount of Payment (check all that apply): \$ _____ actual planned</p>	<p>13. Type of Payment (check all that apply):</p> <ul style="list-style-type: none"> a. retainer b. one-time fee c. commission d. contingent fee e. deferred f. other, specify
<p>12. Form of Payment (check all that apply):</p> <ul style="list-style-type: none"> a. cash b. in-kind; specify: nature value 	
<p>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, Including officer(s), employee(s) or Member(s) contacted, for Payment indicated in Item 11:</p> <p style="text-align: center;">(attach Continuation Sheets) SF-LLL-A, if necessary</p>	
<p>15. Continuation Sheet(s) SF-LLL-A attached Yes No</p>	
<p>16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semiannually and will be available for public inspection. any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p> <p>Signature:</p> <p>Print Name:</p> <p>Title:</p> <p>Telephone No.: _____ Date:</p>	

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

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks “Subawardee,” then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional district, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code for the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

**DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET**

0348-0046

Approved by OMB

1. **Reporting Requirements** - Contractor shall submit reports which are deemed necessary by the SCA or the Department or required for federal reporting requirements, any other reports including, but not limited to, assets, property and supplies, research, personnel monitoring, and any other such reports as the SCA or Department may require. Upon request, and in a manner prescribed by the SCA or the Department, Contractor shall provide a written report indicating the extent to which the Contractor and its subcontractors have met their obligations to pay the employer's share of, and to withhold and remit from employees' salaries, the correct amount of income taxes, F.I.C.A. taxes, unemployment and worker's compensation taxes or premiums, and any other obligations to the appropriate federal, state and local governmental agencies.

2. **Audit and Inspection** - Contractor shall comply with the audit requirements of Appendix B, with regard to federal and state funds and shall permit auditors to have access to its records and financial statements as necessary for the Contractor to comply with OMB Circular A-133 and any additional audit supplement the Department provides the SCA. In addition, the Contractor shall comply with the audit requirements of any additional audit supplement provided by the SCA or the Department as well as any additional audit supplements as issued by the U.S. Office of Management and Budget (OMB). With regard to such federal and state funds, all applicable OMB Circulars and their corresponding attachments and compliance supplements affecting funds awarded through this Contract and issued or revised after the start of this Contract shall apply. The use of a local governmental auditor for audits of the Contractor's operations must have prior written approval of the SCA and the Comptroller for Public Health and Human Services.

3. **Fixed Assets**
 - A. Definition: Fixed assets are identified as furnishings, furniture, equipment and computers that have a useful life of more than one year and an initial purchase price of \$500 or more per item. All vehicles, regardless of purchase price, shall also be defined as a fixed asset.

 - B. Contractor shall receive prior written approval from the SCA and the Department for all fixed assets purchased with funding under this Contract when the total cost per state fiscal year (SFY) of such property exceeds [\$40,000 or 2%] of the Contractor's total annual budget of state, federal and local funds, whichever is less. Contractor must also obtain prior written approval for all vehicle purchases. The cost for such assets shall be allowable only when included within an approved contract budget document.

- C. The following information shall be included in all Contractor requests for fixed asset purchases:
1. Furniture, Furnishings and Equipment
 - a. item to be purchased;
 - b. estimated cost per item;
 - c. need and intended use;
 - d. source of funds to be used;
 - e. State Fiscal Year to which funds are to be charged;
 - f. cost proration between programs, if applicable; and,
 - g. identity of program inventory on which the asset will appear.
 2. Computer Hardware, Software and Peripheral devices
 - a. the type of computer or computer related device to be purchased;
 - b. the manufacturer's name, model or version, the specification and cost quote associated with each item to be purchased;
 - c. need and intended use or application of the product;
 - d. the existing computer hardware, software, and peripheral devices currently in use;
 - e. source of funds to be used;
 - f. SFY to which funds are to be charged;
 - g. cost proration between programs, if applicable; and,
 - h. identity of the program inventory on which the asset will appear.
 3. Vehicles
 - a. Make and model of vehicle;
 - b. Estimated cost of vehicle;
 - c. Need and intended use;
 - d. Source of funds to be used;
 - e. SFY to which funds are to be charged;
 - f. Cost proration between programs, if applicable; and
 - g. Identity of program inventory on which the asset will appear.
- D. The Contractor shall submit all fixed asset purchase requests by May 1st of the applicable SFY to allow for sufficient review and processing time. The Contractor shall obtain fixed assets for use in the performance of this Contract at the lowest practical cost and to purchase by means of competitive bidding (by procuring a minimum of three bids per item). In addition, the Contractor may also purchase fixed assets from state contracts provided that the Contractor:

1. Has in its possession a resolution on file to purchase from state contracts; and
2. Determines their eligibility to purchase from state contracts by contacting the:

Department of General Services
Bureau of Purchases
414 North Office Building
Harrisburg, PA 17125
Telephone No.: (717) 787-1105

- E. The Contractor acknowledges that failure to submit any fixed asset request by the required due date or without proper documentation as outlined in subparagraphs C.1., C.2. and C.3. of this Paragraph will be grounds for disapproval of the fixed asset request by the SCA.
- F. All fixed assets furnished by the SCA or acquired by any of the Contractor's subcontractors with funds under this Contract, including the purchase of real and personal property pursuant to a lease-purchase contract, for which the Contractor is to be reimbursed under this Contract, shall be deemed Commonwealth property. Upon purchase, title to all fixed assets shall be with the Department. During the term of this Contract, the Contractor shall be deemed the repository for all fixed assets purchased or acquired with funds provided under this Contract and shall have exclusive rights to use such fixed assets in accordance with the SCA Fiscal Manual, as issued by the Department, and the State Plan, including any updates or revisions thereto. Within 120 days after the termination of the Contract or at any time upon written notice to the Contractor, the Department may take possession of said fixed assets and reimburse any other funding sources according to their percentage of contribution, based upon fair market value as determined by independent appraisal.
- G. Fixed assets with a purchase price of \$500 or more per item obtained by the Contractor under this Contract shall be recorded by the SCA on the Department's "Annual Inventory Report for Fixed Assets", Form 314. Form 314 must provide a description of the property, quantity of items purchased, identification (serial) number, unit cost of item, total amount expended, total amount funded by BDAP, total amount funded by all other sources, date of acquisition, present location and remarks, if applicable. The annual inventory report for fixed assets shall be a cumulative compilation of all fixed assets procured with 100 percent (100%) BDAP funding as well as those fixed assets procured with partial BDAP participation. In addition, the report shall contain all fixed assets purchased under the original contract, the current contract and any subsequent contracts.

- H. The Contractor shall obtain prior written approval to sell, lend, donate or dispose of, fixed assets purchased with either 100 percent (100%) BDAP funding as well as those fixed assets purchased with partial BDAP participation. The SCA shall record the information on Form 314 under the “remarks” section of the form.
 - I. Fixed assets with a purchase price of \$500 or more obtained by the Contractor under this Contract shall also be recorded on Form 314 and reported to the SCA. The Contractor shall require and maintain on file, in accordance with Paragraphs 26, 27 and 28 of this Agreement, an inventory list of fixed assets, according to the provisions of this Paragraph.
 - J. The Contractor shall maintain and administer, in accordance with sound business practice, a program for the maintenance, repair, protection, preservation and insurance of all fixed assets purchased so as to assure their full availability and usefulness for the performance of this Contract. The Contractor must have a control system, including insurance coverage, in effect, ensuring adequate safeguards to prevent loss, damage, or theft of all fixed assets. Any loss, damage or theft must be investigated and fully documented.
 - K. None of the provisions of this Paragraph shall apply to Contractors which provide their service to the SCA on a fee-for-service (unit cost) basis.
4. **Insurance** - Contractor shall provide insurance coverage in accordance with Paragraph 21 as well as unemployment compensation insurance. Contractor may fulfill its responsibility under this Paragraph by either purchasing the insurance coverage or by having the status of being self-insured under the laws of the Commonwealth. In the event the Contractor is self-insured, benefits paid shall not be reimbursable by the SCA or the Department. Contractor’s employees who have financial responsibilities related to the receipt and disbursement of funding under this contract in the amount of \$10,000 or above shall be covered by a fidelity bond adequate to protect the SCA and the Department from any loss.
5. **Copyright** - Data, as defined in Paragraph 35 may be copyrighted by the Contractor upon written approval of the Department. Where Contractor receives such approval, the Department retains a royalty-free, non-exclusive and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and authorize others so to do, all materials originating in the performance of this contact, whether funded in whole or in part by the Department.
6. **Human Experimentation** - All experimentation with human subjects involving any physical or mental risk to those subjects shall be prohibited without prior written approval of the Secretary of the Department, subject to all applicable laws, statutes, and regulations including, but not limited to, 42 U.S.C. Section 3515b (relating to prohibitions on funding certain experiments involving human participants), and the voluntary, informed and

written consent of each subject. If the subject is a minor or incompetent, a voluntary, informed and written consent of his or her legal guardian shall be required. The Contractor shall inform each potential subject prior to his or her consent that refusal of consent will not result in the loss of any benefits to which the subject is otherwise entitled from the federal government, Commonwealth, the SCA, or any third party insurer.

7. **Confidentiality** - The Contractor agrees that persons diagnosed, counseled, treated and rehabilitated, including all persons formerly diagnosed, counseled, treated and rehabilitated for drug and alcohol abuse and dependence, shall be protected from disclosure of their names, identities, patient records and the information contained therein except as disclosure is permitted by law. To assure confidentiality of client information, the Contractor shall make adequate provision for system security and protection of individual privacy, which includes the establishment of policies and procedures as required by the "Care and Case Management Service Descriptions", dated May, 1998, or any subsequent revision. The Contractor acknowledges having a copy of the May 1998 service descriptions, which are incorporated herein by reference. The Contractor and others subject to the confidentiality requirements of 71 P.S. Section 1690.108, 42 U.S.C. Section 290dd-2, 42 CFR Part 2, and 4 Pa. Code Section 255.5, 257.4 and the Confidentiality of HIV-Related Information Act 1990-148, 35 P.S. Section 7601 *et seq.*, shall comply with these requirements. To assure that confidentiality as prescribed in the paragraph above is appropriately implemented, the Contractor shall require and document that all individuals performing Administrative Care Management, Intensive Case Management and administrative functions receive six (6) hours of confidentiality training by a BDAP approved trainer within 180 days of hire.
8. **Interest of the Contractor** - For purposes of this Contract, having an adverse interest means being employed by or sitting in an advisory position to; having a contract or agreement to provide services or materials, supplies, equipment, land or other personal or real property to; or having more than five percent ownership interest including ownership in the aggregate by such person and any immediate family member in a company, corporation or organization with whom the Contractor contracts. For purposes of this Paragraph, a member of the immediate family means a parent, sibling, spouse, child, grandparent, grandchild or in-laws. The Contractor further covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that in the performance of this Agreement, it shall not knowingly employ any person having such interest. Contractor further certifies that no member of the board of the Contractor or any of its officers or directors have such an adverse interest.
9. **Covenant Against Referral Fees or Fee-Splitting** - Contractor agrees that no employee, board member, or representative of the Contractor, either personally or through an agent, shall solicit the referral of clients to any facility in a manner which offers or implies an offer of rebate to persons referring clients, or any other fee-splitting inducements. No person or entity involved in the referral of clients may receive payment or other inducement by a facility or its representatives.

10. **Independent Capacity of Contractor** - The parties hereto agree that the Contractor, and any agents and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers, employees, or agents of the SCA or the Commonwealth of Pennsylvania.

11. **Federal Lobbying Certification and Disclosure Requirements** - Contractor certifies, to the best of Contractor's knowledge and belief, that:
 - A. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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

 - C. Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure. Copies of the certification and lobbying disclosure forms are attached to this document as Appendix C. Persons or entities, at whatever tier, receiving more than \$100,000 in federal funds hereunder, shall promptly file the certification and any necessary lobbying disclosure forms with the tier providing the funding. That tier shall retain the certification but promptly file any lobbying disclosure forms with the next higher tier until such lobbying disclosure forms reach the federal funding source agency. There is an obligation to file an amended lobbying disclosure form and pass it from tier to tier whenever there is a material change to the original lobbying disclosure form. See 55 Federal Register 6736 - 6756

(February 26, 1990). Further general information may be obtained by telephoning the federal Office of Management and Budget at 202-395-3254.

12. **Contractor Responsibility Provisions** - The following provisions supersede any conflicting language elsewhere in this Contract.

For the purposes of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under Contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under Contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term Contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

- A. The Contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth Contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.
- B. The Contractor must also certify, in writing, that as of the date of its execution, of any Commonwealth Contract it has no tax liabilities or other Commonwealth obligations.
- C. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the contracting agency if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- D. The failure of the Contractor to notify the contracting agency of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- E. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or

debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- F. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at **<http://www.dgs.state.pa.us/debarment.htm>** or contacting the:

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

13. **Certification Regarding Drug-Free Workplace Requirements** - By signing this Agreement, the Contractor, in accordance with 45 CFR Part 76, certifies that it shall provide a drug-free workplace by:

- A. Establishing a drug-free awareness program to inform employees about:
- (1) The dangers of drug abuse in the workplace; and
 - (2) The Contractor's policy of maintaining a drug-free workplace; and
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- B. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that shall be taken against employees for violation of such prohibition.
- C. Including the statement published pursuant to (B) above, a requirement that each employee, as a condition of employment, shall:
- (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

- D. Notifying the Department and the SCA within ten (10) days after receiving notice under subparagraph C(2), above, from an employee or otherwise receiving actual notice of such conviction.
- E. Taking one of the following actions, within thirty (30) days of receiving notice under subparagraph C(2), above, with respect to any employee who is so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination;
 - or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency.
- F. Making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs A, B, C, D and E above.

- 14. **Whole Contract** - This Contract with attached Appendices and items incorporated by reference contains all the terms, provisions, and conditions of this Contract. All the provisions thereof are intended by the parties to be whole and entire, and no provision nor any part thereof is severable unless otherwise specifically provided herein.
- 15. **Pregnant Women and Women with Dependent Children** - In accordance with Federal regulation 45 C.F.R. 96.131(c), in the event the Contractor has insufficient capacity to provide treatment services to any pregnant woman who seeks the services from the Contractor, the Contractor shall refer the woman to the SCA. This may be accomplished by establishing a capacity management program, utilizing a toll-free number, and automated reporting system and/or other mechanisms to ensure that pregnant women in need of such services are referred as appropriate.

In accordance with Federal regulation 45 C.F.R. 96.131(d), the SCA, in the case of each pregnant woman for whom a referral is made to the SCA, shall:

- (a) Refer the woman to a treatment provider that has the capacity to provide treatment services to the woman. If no treatment facility has the capacity to admit the woman, then;
- (b) Make available interim services to the woman not later than 48 hours after the woman seeks the treatment services. Interim Services are defined as services to reduce adverse health effects of substance abuse; to promote the health of the individual; and to reduce the risk of transmission of a disease until the individual is admitted to a treatment program. At a minimum, interim services include

counseling and education about HIV and Tuberculosis (TB), about the risks of needle sharing, about the risks of transmission to sexual partners and infants, and about steps that can be taken to ensure that HIV and TB transmission does not occur, as well as referral for HIV and TB treatment services if necessary. For pregnant women, interim services shall also include counseling on the effects of alcohol and drug use on the fetus, as well as referral for prenatal care.

In accordance with Federal regulation 45 C.F.R. 96.124(e), the Contractor receiving Federal SAPT Block Grant funds for the purpose of providing treatment services to pregnant women and women with dependent children shall provide or arrange for the provision of the following services to pregnant women and women with dependent children, including women who are attempting to regain custody of their children:

- (a) Primary medical care for women, including a referral for prenatal care and, while the women are receiving such services, child care;
- (b) Primary pediatric care, including immunization, for their children;
- (c) Gender sensitive substance abuse treatment and other therapeutic interventions for women which may address issues of relationships, sexual and physical abuse, family therapy, nutrition education and education to GED level;
- (d) Sufficient case management and transportation to ensure that women and their children have access to the services provided in this Paragraph; and
- (e) Therapeutic interventions for the children in the custody of the women receiving treatment services pursuant to this Paragraph, which may address, among other things, the children's developmental needs, issues of sexual and physical abuse, and neglect.

16. **Tuberculosis Services** -

A. The Contractor that receives federal block grant funds shall:

1. Routinely make available, directly or through a subcontractor, tuberculosis (TB) services to each individual receiving substance abuse treatment. TB services include:

- [a] Counseling the individual with respect to tuberculosis;
- [b] Mantoux tuberculin skin testing to determine whether the individual has been infected with *Mycobacterium tuberculosis* to determine the appropriate form of treatment for the individual; and
- [c] Providing for or referring the individuals infected by *Mycobacterium tuberculosis* for appropriate medical evaluation and treatment.

2. Refer individuals in need of such treatment who are turned away due to lack of capacity to another provider of TB services and report the lack of capacity to the SCA;
 3. Implement infection control procedures that are designed to prevent the transmission of tuberculosis. Such procedures shall include, at a minimum, the following:
 - [a] Screening of patients;
 - [b] Identification of those individuals who are at high risk of becoming infected; and
 - [c] Meeting all state reporting requirements while adhering to federal and state confidentiality requirements, including 42 C.F.R. Part 2.
 4. Provide for or refer individuals infected by *Mycobacterium tuberculosis* for appropriate medical evaluation and treatment;
 5. Provide Directly Observed Preventive Therapy (DOPT), if called upon by the local Health Authority to do so. DOPT involves a staff member observing the self-administration of medication by a non-infectious patient. The intent of DOPT is to ease the patient's burden of pill-taking while ensuring its administration; and
 6. Conduct activities to ensure that individuals receive such services.
- B. The SCA shall be responsible for:
1. Coordinating the testing of clients from federally funded facilities with the Department's nurses or providers.
 2. Monitoring and reporting the delivery of testing through the Department's Client Information System (CIS);
 3. Identifying compliance problems and corrective actions to be taken to address those problems; and
 4. Assuring that programs that lack capacity are referring individuals to another provider.

17. **Block Grant Compliance** -

- A. The Contractor shall adhere to the block grant provisions as outlined in Appendix D of this Agreement. In addition, the Contractor shall use no block grant funding to provide individuals with hypodermic needles or syringes so that such individuals

may use illegal drugs, unless the Secretary of Health of the Commonwealth, in consultation with and upon recommendation of the Pennsylvania Drug, Device and Cosmetic Board, determines to waive the pertinent provisions of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. Section 780-101 et seq., which would prohibit such an exchange.

- B. The Contractor assures that it and any subcontractor under this Agreement shall cooperate fully with the Commonwealth to enable it to comply with any reporting, audit, or fiscal requirements imposed under 42 U.S.C. Section 300x-52.

- C. In accordance with Federal regulation 45 C.F.R. 96.131(a), the Contractor that serves women and who receives SAPT Block Grant funds shall provide preference to pregnant women. The Contractor that serves an injecting drug abuse population and who receives SAPT Block Grant funds shall give preference to treatment as follows:
 - (1) Pregnant injecting drug users;
 - (2) Pregnant substance abusers;
 - (3) Injecting drug users; and
 - (4) All others.

In accordance with Federal regulation 45 C.F.R. 96.131(b), the Contractor shall publicize the availability to such women of services from the facilities and the fact that pregnant women receive such preference. This may be done by means of street outreach programs, ongoing public service announcements (radio/television), regular advertisements in local/regional print media, posters placed in targeted areas, and frequent notification of availability of such treatment distributed to the network of community based organizations, health care providers and social service agencies.

- D. The Contractor assures that, should the federal government conduct any investigation under 42 U.S.C. Section 300x-55(g), the Contractor shall cooperate fully with the Commonwealth in such investigation and specifically shall make available for examination and copying by the Commonwealth, the U.S. Department of Health and Human Services or the Comptroller General of the United States, the documentary records outlined under 42 U.S.C. Section 300x-55.

- E. The SCA shall require Contractors who provide treatment and/or prevention services and who receive federal SAPT Block Grant funds to make available continuing education in such services to employees of the provider.

- F. The SCA shall require notification within seven (7) days from those Contractors that receive SAPT Block Grant funds and that treat individuals for intravenous substance abuse upon reaching 90 percent (90%) of its capacity to admit individuals to the program.
- G. The SCA shall ensure that each individual who requests and is in need of treatment for intravenous drug abuse is admitted to a program for such treatment no later than 14 days after making the request for admission to such a program, or 120 days after the date of such request, if no such program has the capacity to admit the individual on the date of such request and if interim services are made available to the individual not later than 48 hours after such request. Interim Services are defined as services that are provided until an individual is admitted to a substance abuse treatment program. The purpose of these interim services is to reduce the adverse health effects of such abuse, promote the health of the individual, and reduce the risk of transmission of disease. At a minimum, interim services include counseling on and testing for HIV and TB, counseling about the risks of needle sharing, about the risks of transmission to sexual partners and infants and about steps that can be taken to ensure that HIV and TB transmission does not occur, as well as referral for HIV and TB treatment services if necessary. For pregnant women, interim services also include counseling on the effects of alcohol and drug use on the fetus, as well as referral for prenatal care.
- H. The SCA shall require that any entity that receives federal SAPT Block Grant funding for treatment services for intravenous drug abuse carry out activities to encourage individuals in need of such treatment to undergo such treatment. The SCA shall require such entities to use outreach models that are scientifically sound, or if no such models are available which are applicable to the local situation, to use an approach which reasonably can be expected to be an effective outreach method. The model shall require that outreach efforts include the following:
- (1) Selecting, training and supervising outreach workers;
 - (2) Contacting, communicating and following-up with high risk substance abusers, their associates, and neighborhood residents, within the constraints of federal and state confidentiality requirements, including 42 C.F.R. Part 2;
 - (3) Promoting awareness among injecting drug abusers about the relationship between injecting drug abuse and communicable diseases such as HIV;
 - (4) Recommending steps that can be taken to ensure that HIV transmission does not occur; and
 - (5) Encouraging entry into treatment.

- I. The SCA shall use no block grant funding to provide financial assistance to any entity other than a public or non-profit private entity. Financial assistance is defined as grants issued at the request of the recipient and does not apply to contracts issued by the SCA for the receipt of goods and services.
18. **Interest Income and Third Party Income** –
 - a. State and federal funds received under this Agreement shall be promptly deposited in an insured interest-bearing account. Interest income derived from such deposits is Departmental funds and, as such, shall be reported quarterly to the SCA. All Contractors, except fee for service Contractors, that derive interest income from Departmental funds provided to such Contractors by the SCA shall be required to utilize such income before BDAP funding is utilized or to secure additional eligible drug and alcohol services.
 - b. The SCA and Contractors shall ensure that funds received under this Agreement are not utilized to pay for any item or service to the extent that payment has been made or can reasonably expect to be made with respect to that item or service through third party income. Third party income resulting from the provision of services under this Agreement shall be applied against the approved cost or charge of such services rendered during that same period in order to reduce the amount of reimbursement due from the Department or the SCA. Examples of such third party income include, but are not limited to, medical assistance reimbursements, client fees, insurance reimbursements, training fees, and food stamp redemptions. Records of receipt and disposition of fees shall be maintained in accordance with Paragraphs 26, 27 and 28 of this Agreement.
 19. **Travel** – The Contractor shall be bound by the terms and conditions regarding travel and subsistence rates as set forth in Appendix F of this Agreement. However, if the prevailing county travel policies provide for reimbursement of these items at a lower rate than the state rate, then the lower rate shall govern. If prevailing collective bargaining unit policies apply for the reimbursement of these items at a rate different from the state or county travel policies, the terms of the bargaining unit shall prevail.
 20. **Contract Construction** - The provisions of this Agreement shall be construed in accordance with the provision of the Laws of the Commonwealth of Pennsylvania.
 21. **Independent Contractor** - The Contractor shall perform its services under this Agreement as an independent contractor and shall provide public liability, property damage and workers' compensation insurance, insuring as they may appear, the interests of all parties to the Agreement against any and all claims which may arise out of Contractor's operations under the terms of this Agreement. The Contractor shall accept full responsibility for the payment of premiums for workers' compensation and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for its employees who are performing services specified by this Agreement.

22. **Department Held Harmless** - The Contractor agrees to indemnify, defend and save harmless the Commonwealth (including the Department), its officers, agents and employees and the SCA: (a) from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other persons, firms or corporations furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement; and (b) from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Agreement; and (c) against any liability, including costs and expenses, for violation of proprietary rights or right of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Agreement or based on any libelous or other unlawful matter contained in such data.
23. **Assignability** - The Contractor shall not assign the agreement, or payment thereunder, to any third party without prior written approval by the SCA.
24. **Other Contractors** - The Department or SCA may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors, Department employees and SCA employees and carefully fit its work to such additional work. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by Department employees or SCA employees.

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

25. **Availability of Information** - During the period of this Agreement, all information obtained by the Contractor through work on the project shall be made available to the Department and SCA immediately upon demand.
26. **Examination of Records** -.
- A. Contractor agrees to maintain books, records, documents and other evidence pertaining to the costs and expenses of this Agreement (hereinafter referred to in this paragraph 26 as "the records"), to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract. If Contractor is not a public body, Contractor agrees to maintain books, records, documents and other evidence in accordance with accounting procedures and practices which meet generally accepted accounting principles.

- B. If this Agreement provides funding for a clinic or program which receives income or funding other than directly through this Agreement (such as, but not limited to, third party reimbursement for patients), Contractor agrees that all parts of this paragraph 26 shall also apply to Contractor's records pertaining to such other sources of funding or income supporting the clinic or program.
- C. Contractor agrees to make available at the Office of the Contractor at all reasonable times during the term of this Agreement and the period set forth in Paragraph 28 below, any of the records for inspection, audit or reproduction by any authorized representative of the Department, the Department's Comptroller, the Auditor General, the Inspector General, Federal auditors or the SCA.
- D. The provisions of this paragraph 26 shall be applicable to and included in each sub-contract hereunder. The term "sub-contract" as used in this paragraph excludes purchase orders not exceeding \$1,000 and sub-contracts or purchase orders for public utility services at rates established for uniform applicability to the general public.
- E. Contractor agrees to collect statistical data of a fiscal nature on a regular basis and to make fiscal statistical reports at times prescribed by, and on forms furnished by the Department and SCA.

27. **Program Records** -

- A. Contractor agrees to maintain program records required by the Department and the SCA and agrees that a program and facilities review, including meetings with consumers, review of service records, review of service policy and procedural issuances, review of staffing ratios and job descriptions, and meetings with any staff directly or indirectly involved in the provision of services may be conducted at any reasonable time by the SCA, State and Federal personnel and other persons duly authorized by the Department.
- B. Contractor agrees to maintain program statistical records required by the Department and the SCA to produce program narrative and statistical data at times prescribed by, and on forms furnished by the Department and the SCA.
- C. The Contractor shall submit progress reports in a format and on a schedule specified by the Department and the SCA.

28. **Record Retention Requirements** - All records kept pursuant to Paragraphs 26 and 27 shall be retained pursuant to the provisions of this paragraph 28.

- A. The Contractor shall preserve and make available its records for a period of four years from the date of final payment under this Agreement, and for such period, if

any, as is required by applicable statute, by any other paragraph of this Agreement, or by sub-paragraphs (1) or (2) below.

- (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of four years from the date of any resulting final payment.
- (2) Records which relate to litigation or the settlement of claims arising out of the performance of this Agreement, or costs and expenses of this Agreement as to which exception has been taken by the auditors, shall be retained by the Contractor until such litigation, claims, or exceptions have been disposed of.

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

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

30. **Quality Assurance** –

- (a) Unless otherwise provided herein, the Contractor with due diligence shall furnish all necessary qualified personnel, material and equipment, managing and directing same to complete the work required by this Agreement. The Contractor's work hereunder shall be monitored by the SCA's designated representatives.
- (b) The Contractor shall be available for Quality Assurance Assessment Reviews and follow-up visits as required by the Department.

31. **Program Changes** - The SCA may at any time, by written order, make changes in the statement of work, provided such changes are within the general scope of the statement of work and provided further that the total cost of this Agreement is not exceeded. A change in the scope of work or an increase in the total cost of this Agreement shall require a fully executed contract amendment. The SCA and the Contractor shall mutually determine whether the ordered changes can be accomplished within the total contract cost and the extent of change, if any, in delivery schedules required by the ordered changes.

32. **Background Material** - If requested, the Contractor shall deliver to the Department and the SCA background material prepared or obtained by the Contractor incidental to the performance of this Agreement. Background material is defined as original work papers, notes and drafts prepared by the Contractor to support the data and conclusions in the final reports, and includes, but is not limited to, completed questionnaires and material in electronic data processing form, computer programs, other printed materials, pamphlets, maps, drawings and books acquired by the Contractor during the term of the Agreement and directly related to the services being rendered.
33. **Key Personnel** - The personnel specified in this Agreement are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the SCA reasonably in advance and shall submit justification including proposed substitutions, in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the SCA.
34. **Inspection and Acceptance** - Final inspection and acceptance of all work required under this contract shall be performed by the SCA.
35. **Data, Copyrights and Disclosure** -
- (a) **Definition:** the term “data” as used herein, includes, but is not necessarily limited to written reports and analyses, diagrams, maps, system designs, computer programs, flow charts, punched card decks, magnetic tapes, diskettes, drawings, studies, manuals, brochures, advertisements and work of any similar nature which is required to be performed under this Agreement. It does not include Contractor’s financial reports or other information incidental to Agreement administration.
 - (b) **Rights in Data:** Data submitted to and accepted by the Department under this Agreement shall be the property of the Department, and it shall have full right to use such data for any official purpose in whatever manner deemed desirable and appropriate. Such use shall be without any additional payment to or approval by the Contractor.
 - (c) **Data Collection:** All data collected under this Agreement (computer tapes, programs and other software developed, and other documentation) shall become the property of the Department at the close of the contract period.
 - (d) **Forms Approval:** All forms, questionnaires, survey instruments, etc., developed under this Agreement shall be subject to prior written approval by the Department.
 - (e) **Data Processing:** All computer programs, tapes, and software developed under this Agreement, and any data or information provided to the Department by diskette or electronic means, shall be compatible with Department computer

systems. Specifications, if not included elsewhere in the Agreement, may be obtained from the SCA.

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

- (g) **Defense of Infringement Claim:** The Contractor shall defend any suit or proceeding brought against the Commonwealth, including the Department, or their officials or employees, on account of any alleged infringement of any copyright arising out of the performance of this Agreement, including any suit or proceeding relating to all work, services, materials, reports, studies and computer programs provided by the Contractor; PROVIDED, nevertheless, that the Commonwealth shall provide prompt notification in writing of such suit or proceedings, together with full right, authorization and opportunity to conduct the defense thereof, and full information and all reasonable cooperation for the defense of the same. If principles of governmental or public law are involved, the Commonwealth may participate in the defense of any such action. The Contractor shall pay all damages and costs awarded therein against the Commonwealth. If information and assistance are furnished by the Commonwealth at Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written request. If any of the data, materials, reports, studies or computer programs provided by the Contractor are held to constitute infringement, and the use of publication thereof is enjoined in such suit or proceeding, the Contractor shall, at its own expense and at its option, either procure the right to publish or continue use of such infringing data, materials, reports, studies or computer programs, replace them with non-infringing items, or so modify them so that they are no longer infringing. If after a reasonable time and good faith effort, the Contractor is unable to comply with the requirements of the immediately preceding sentence, the Contractor shall return to the Department that portion of contract funds expended by the Contractor in relation to the infringing item. The obligations of the Contractor under this paragraph continue without time limit.

- (h) **Public Notices:** All notices, informational pamphlets, press releases, research reports and similar public notices prepared and released by the Contractor, shall include the statement, "This project is funded, in part, under a contract with the Pennsylvania Department of Health. Basic data for use in this study were supplied by the Pennsylvania Department of Health, Harrisburg, Pennsylvania. The

Department specifically disclaims responsibility for any analyses, interpretations or conclusions.”

- (i) **Press Office Approval:** All printed material is subject to written pre-approval by the Press Office of the Department. “Printed material” includes, but is not limited to, brochures, manuals, labels, newsletters, art work and print advertisements. All printed material must bear the Department logo and the names and titles of the Governor and the Secretary of Health unless otherwise authorized in writing by the Department Press Secretary. All material produced for radio and television must also be approved for quality of content and accreditation in writing by the Department Press Secretary prior to final production as well as after final production.
 - (j) **Sensitive Information:** The Contractor shall not publish or otherwise disclose, except to the Department and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a publication whereby the information or data furnished by or about any particular person or establishment can be identified, except with the informed consent of such person or establishment.
36. **Collection or Recording of Information** - The Contractor shall submit to the Project Officer for written approval prior to use, copies of each questionnaire and survey plan, including plans for structured interviews and consultations, for the collection of information upon identical items from five or more individuals or organizational elements. The term “structured interview and consultation” is defined as an interview or consultation which follows a predesigned line of questioning that takes approximately the same form for all the respondents being interviewed or consulted.
37. **Contract Contingent Upon Legislative Appropriation** - Payment hereunder is subject to the availability of State and/or Federal funds.
38. **Covenant Against Contingent Fees** - The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee (excepting bona fide employees or bona fide established commercial selling agencies maintained by the Contractor for the purpose of securing business). For breach or violation of this warranty, the Commonwealth shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the consideration otherwise due under this Agreement, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
39. **Environmental Protection** - In carrying out this Agreement, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.

40. **Equal Employment Opportunity -**

- (a) Contractor shall not discriminate against any employee, applicant for employment, independent contractor or any other person because of race, color, religious creed, ancestry, national origin, age or sex. Contractor shall take affirmative action to insure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age or sex. Such affirmative action shall include, but is not limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training. Contractor shall post in conspicuous places, available to employees, agents, applicants for employment, and other persons, a notice to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.
- (b) Contractor shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age or sex.
- (c) Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Contractor.
- (d) It shall be no defense to a finding of noncompliance with this nondiscrimination clause that Contractor had delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the Contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- (e) Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that Contractor will be unable to meet its obligations under this nondiscrimination clause, Contractor shall then employ and fill vacancies through other nondiscriminatory employment procedures.
- (f) Contractor shall comply with all State and Federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Contractor's noncompliance with the nondiscrimination clause of this Agreement or with any such laws, this Agreement may be terminated or suspended, in whole or in part,

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

- (g) Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by, the Department and the Office of Administration, Bureau of Affirmative Action, for purposes of investigation to ascertain compliance with the provisions of this clause. If Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Department or the Bureau of Affirmative Action.
- (h) Contractor shall actively recruit minority sub-contractors or sub-contractors with substantial minority representation among their employees.
- (i) Contractor shall include the provisions of this nondiscrimination clause in every sub-contract, so that such provisions will be binding upon each sub-contractor.
- (j) Contractor obligations under this clause are limited to the Contractor's facilities within Pennsylvania, or where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

41. **Equal Opportunity for the Handicapped** -

- (a) The Contractor agrees to abide by Section 504 of the Rehabilitation Act of 1973, as amended (Public Law 93-112, 29 U.S.C. §§794, as amended) and implementing Federal regulations. The Contractor assures that any benefits, services, or employment, available through the Contractor to the public by way of this Agreement's funds, shall not be denied persons with handicaps who are otherwise qualified or eligible for the benefits, services, or employment available as a result of this Agreement.
- (b) The Contractor shall include the provisions of sub-paragraph (a) above in every sub-contract under this Agreement so that such provision binds each sub-The contractor.

42. **Provisions Concerning the Americans With Disabilities Act.** -

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

- A. Pursuant to federal regulations promulgated under the authority of the Americans With Disabilities Act, 28 C.F.R. '35.101 et seq., the Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Agreement or from activities provided for under this Agreement. As a condition of accepting and executing this Agreement, the Contractor agrees to comply with the "General Prohibitions Against Discrimination,"

28 C.F.R. '35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

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

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

44. **Contractor Integrity Provisions** -

A. Definitions.

- (1) Confidential information means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.
- (2) Consent means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this Agreement.
- (3) Contractor means the individual or entity that has entered into this Agreement with the Commonwealth, including directors, officers, partners, managers, key employees, and owners of more than a five percent interest.
- (4) Financial Interest means:
 - (a) Ownership of more than a five percent interest in any business; or
 - (b) Holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
- (5) Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

- B. The Contractor shall maintain the highest standards of integrity in the performance of this Agreement and shall take no action in violation of State or Federal laws, regulations, or other requirements that govern contracting with the Commonwealth.
- C. The Contractor shall not disclose to others any confidential information gained by virtue of this Agreement.
- D. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.
- E. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly, or indirectly, offer, give, or agree to promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.
- F. Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this Agreement except as provided therein.
- G. Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.
- H. The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.
- I. The Contractor, by execution of this Agreement and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he or she has not violated any of these provisions.
- J. The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents or files of any type or form which refer to or concern this Agreement. Such information shall be retained by the Contractor for a period of three years beyond the termination of the Agreement unless otherwise provided by law.

- K. For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another contractor to complete performance hereunder, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.
45. **Laws and Regulations** - This Agreement is subject to the provisions of all pertinent Federal, State and local laws and regulations and all amendments made thereto. Definitions of service, eligibility of recipients of service and other limitations on the purchase of the services established in this Agreement are subject to modification by amendments to Federal, State and local laws and regulations without further notice to the Contractor.
46. **Integration Clause** - The parties agree that this Agreement constitutes the entire contract.
47. **Substance Abuse Prevention and Treatment Block Grant Provisions** - This contract is funded by Federal block grant monies pursuant to the Federal Substance Abuse Prevention and Treatment Block Grant (SAPTBG) and in accordance with 42 U.S.C. Section 300x-31 and 45 CFR Section 96.135. None of this contract's funds shall be used to:
- A. Provide inpatient hospital services unless it is determined, in accordance with guidelines issued by the Secretary of Health and Human Services, that such treatment is a medical necessity for the individual involved and that the primary diagnosis of the individual is substance abuse, the services can be reasonably expected to improve the individual's condition or level of functioning and the individual cannot be effectively treated in a community-based, non-hospital, residential program of treatment and the hospital's substance abuse program follows national standard of substance abuse professional practice. The daily rate of payment provided to the hospitals for providing the services to the individual shall not exceed the comparable daily rate provided for community-based, non-hospital, residential programs of treatment for substance abuse; and that payment is only for services that are medically necessary, that is, only for those days that the patient cannot be safely treated in a residential, community-based program.
 - B. Make cash payments to intended recipients of health services;
 - C. Purchase or improve land, purchase, construct or permanently improve (other than minor remodeling if provided for in the line item budget of this contract) any building or other facility, or purchase major medical equipment. (No minor

equipment may be purchased unless the line item budget specifically provides for such purchase);

- D. Satisfy any requirement for the expenditure of non-Federal funds as a condition for receipt of Federal funds;
- E. Provide financial assistance to any entity other than a public or non-profit private entity; or
- F. Provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines in writing that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for AIDS.

48. **Pro-Children Act of 1994** - Contractor shall agree to comply with the following certification required by P.L. 103-227 Sections 1041-1044, 20 U.S.C. Sections 6081-6084, known as the Pro-Children Act of 1994, which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient hospital drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. Contractor certifies that it will comply with the requirements of the Pro-Children Act of 1994 and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Pro-Children Act of 1994. The Contractor agrees that it will require that the language of this certification be included in any subcontracts which contain provisions for children's services and that all subcontractors shall certify accordingly.
49. **Disallowance/Offset** - If the SCA determines that the Contractor has spent funds in contradiction with this Contract, or any state or federal law or regulation, the SCA shall notify the Contractor of the disallowed expenditure and offset it against any monies payable to the Contractor.
50. **Grievance and Appeal** – Contractor shall adhere to the grievance and appeal procedure issued by the SCA.
51. **Pennsylvania Client Placement Criteria (PCPC)** -

- (1) The Contractor shall use the Pennsylvania's Client Placement Criteria (PCPC) for adults, Second Edition, and the American Society of Addiction Medicine's Patient Placement Criteria, Second Edition (ASAM-PPC II) for adolescents, or other Department issued or approved placement criteria, for all individuals referred or funded by the SCA, who require treatment in a licensed drug and alcohol facility. The Contractor, who is responsible for placement, continuing stay and discharge decisions, shall not administer the PCPC or ASAM-PPC II until such time as the Contractor's staff have been trained, by a BDAP approved trainer, in the use of the PCPC or ASAM-PPC II.
- (2) The Contractor shall use the PCPC Summary Sheet (PCPC Appendix C) to record and exchange client information necessary for the utilization of the criteria in making placement determinations. The Contractor shall ensure that the PCPC Summary Sheet is consistent with BDAP Information Bulletin 13-98 PCPC Summary Sheet which includes a summary sheet determined to meet state confidentiality regulations at 4 PA Code 255.5 [b]. Any alterations, modification or additions to the PCPC Summary Sheet must be approved by BDAP.
- (3) The Contractor shall implement and use the PCPC Summary Sheet for the exchange of client information necessary to obtain authorization and to conduct continuing stay reviews.

52. **Financial Management** – Contractor shall comply with the following procedures for all funds provided under this Agreement:

- (a) Create and maintain a separate set of records which accounts for all financial transactions.
- (b) Develop and utilize a group of accounts to adequately classify and summarize financial activities. Such accounts shall facilitate the reporting of data required by the Department.
- (c) Use generally accepted accounting principles and procedures for recording of financial activity.
- (d) Record and administer the receipt and disbursement of all funds from the drug and alcohol program account.
- (e) Maintain appropriate documents and supporting evidence to substantiate all financial activity.
- (f) Use all fiscal reporting forms and procedures as indicated by the Department.