

CONTRACT RENEWAL/MODIFICATION AGREEMENT

Contract Number: 705BJ632554

Renewal Number: 1

Modification Number: 1

Issued By: COMMONWEALTH OF VIRGINIA
Virginia Department of Health
Office of Family Health Services
Division of Child and Family Health
109 Governor Street, 9th Floor
Richmond, Virginia 23219

Contractor: City of Hampton
100 Old Hampton Lane
Hampton, Virginia 23669

Commodity: Maternal, Infant and Early Childhood Home Visiting Program

This Renewal Agreement is entered into pursuant to the renewal section of the contract. The period of performance is hereby renewed from October 1, 2017 through September 30, 2018.

Amount of Renewal: \$372,923.00

Supplemental Agreement is entered into pursuant to the provision of the basic contract.

FEDERAL REQUIREMENTS FOR SUB-RECIPIENT CONTRACTS

<input type="checkbox"/>	Contractor is a Vendor	
<input checked="" type="checkbox"/>	Contractor is a Sub-recipient	Information Below Does Apply

FEDERAL AWARD INFORMATION: Sub-recipient of federal awards must be informed of the catalog of Federal Domestic Assistance (CFDA) number, grant name and number, grant year and federal awarding agency. This information will become part of the Contract.

Federal Award Identification Number: 6X10MC29509-01-02
Federal Award Date: April 1, 2016 - September 30, 2018
Total Amount of Federal Award: \$7,648,351.00
Name of Federal Grantor: HRSA
CFDA Number & Name: 93.870 - ACA MIECHV Program
Research & Development: Yes No

Description of Modification:

- Change in renewal amount.
- See attached scope of services and budget.

Federal Funding Accountability and Transparency Act (FFATA) Effective October, 2010, all entities that plan to apply for and ultimately receive a Federal grant/cooperative agreement or receive sub awards directly from recipients of those funds shall:

- Be registered in System for Award Management (SAM) prior to submitting an application or plan. The SAM is a Web-enabled government wide application that collects, validates, stores and disseminates business information about the federal government's trading partners in support of the contract award, grants and the electronic payment processes. SAM information must be updated at least every 12 months to remain active (for both grantees and sub-recipients),
- Have a DUNS number,
- Provide address for primary Virginia service location including nine digit zip code,
- Provide Executive compensation information for five most highly compensated officers if all of the following apply:
 - Organization receives 80% or more of its annual gross revenues in Federal awards,
 - Organization receives \$25,000,000 or more in annual gross revenues from Federal awards,
 - Executive compensation has not previously been reported to any Federal Agency through any other reporting system.

Monitoring: The Department will monitor the Contractor to evaluate the progress and performance of the program. The Contractor shall furnish the Department on request information regarding payments claimed for services under this contract. The Department and Federal personnel shall be provided access to all program-related records and facilities under reasonable request.

The Contractor shall retain all books, accounts, reports, files and other records relating to the performance of the contract for a period of five years after its completion. All accounting records must be supported by source documentation and retained in order to show for what purpose funds were spent. All such records shall be made available and produced for inspection when required by the Department.

Should an audit by authorized state or federal official result in disallowance of amounts previously paid to the Contractor, the Contractor shall reimburse the Department upon demand.

Time and Effort Reporting: The Contractor shall comply with time and effort reporting as required by the Federal Office of Management and Budget (OMB) Circular A-87 (Cost Principles for State, Local and Indian Tribal Government). All employees paid in whole or in part from grant funds should prepare a timesheet indicating the hours worked on each specific project for each pay period. Based on these time sheets and hourly payroll cost for each employee, a statement indicating the distribution of payroll charges should be prepared and placed in the appropriate files and shall be made available for inspection when required by the Department. The Contractor shall retain all books, reports, files and other records relating to time and effort reporting for a period of five years after completion.

Audit of Financial Records: The Contractor shall comply with the audit and reporting requirements defined by the Federal Office of Management and Budget (OMB) Circular A-133 (Audits of States, Local Government and Non-Profit organizations) as applicable. The Contractor will, if total Federal funds expended are \$750,000 or more a year, have a single or program-specific financial statement audit conducted for the annual period in compliance with the General Accounting Office audit standards. A copy of the portion of the audit that affects the program will be submitted to the Commonwealth of Virginia. If there are no audit findings, a letter indicating no finds shall be submitted. The copy of the portion of the audit findings or the letter indicating no findings shall be sent to the Virginia Department of Health.

If total federal funds expended are less than \$750,000 for a year the Contractor must meet the above audit requirements or maintain financial records for such audit that are available for review by

appropriate officials of the granting Federal agency, pass-through entity, and the General Accounting Office.

APPROPRIATIONS: The Contractor acknowledges the understanding that this Agreement is subject to appropriations and constraints by the State or the Federal government budget.

SMOKEFREE ENVIRONMENT: Public Law 103-277, also known as the Pro-Children Act of 1994, requires that smoking not be permitted in any portion of 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. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 for each violation **and/or the imposition of an administration compliance order on the responsible entity.**

SUBCONTRACTS: No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the contractor desires to subcontract some part of the work specified herein, the contractor shall furnish the Departments names, qualifications and experience of their proposed subcontractors and shall assure compliance with all requirements of the contract. Subcontracting with local health districts is not allowed.

INTEGRATION AND MODIFICATION: This Agreement constitutes the entire understanding of the parties as to the matters contained herein. No alteration, amendment or modification of this Agreement shall be effective unless in writing and signed by the duly authorized officials of both The Department and Contractor.

PRICE ADJUSTMENT: This is a cost reimbursement agreement that is negotiated prior to annual renewal each year depending on the approved budget. The Department approved, price adjustment may be allowed at any time during the term of this Agreement.

CONFIDENTIALITY OF PROPRIETARY INFORMATION, DUPLICATION AND DISCLOSURE: The Contractor agrees that proprietary information disclosed by the Department to the Contractor for the purpose of a Memorandum of Understanding shall be held in confidence and used only in the performance of the contract. No item designed for or by the Department shall be duplicated or furnished to others without prior written consent. All products and materials including but not limited to papers, data, reports, forms, records, materials, creations, or inventions relating to this contract are sole and exclusive property of the Department. All such materials shall be delivered to the Department in usable condition at any time requested by the Department.

TERMS AND CONDITIONS:

A. APPLICABLE LAWS AND COURTS:

This contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

B. AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent that the legislature has appropriated funds that are legally available or may hereafter become legally available for the purpose of this agreement.

C. **CANCELLATION OF CONTRACT:** The department reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may also be terminated by the contractor, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

D. **CHANGES TO THE AGREEMENT:**
The parties may agree in writing to modify the scope of the Memorandum of Agreement. An increase or decrease in the price to the memorandum of Agreement resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the Memorandum of Agreement.

E. **CONFIDENTIALITY OF PROPRIETARY INFORMATION AND PERSONALLY IDENTIFIABLE INFORMATION:**
The Contractor assures that information and data obtained as to proprietary information and personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the Department's written consent and only in accordance with federal law or the Code of Virginia. Contractors who utilize, access, or store proprietary information or personally identifiable information as part of the performance of an agreement are required to safeguard this information and immediately notify the Department of any breach or suspected breach in the security of such information. Contractors shall allow the Department to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.

F. **DRUG-FREE WORKPLACE:** Applicable for all contracts over \$10,000:
During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

G. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** Applicable for all contracts over \$10,000: By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

H. CONFIDENTIALITY OF HEALTH RECORDS:

By signature on this agreement, the Contractor agrees to comply with all applicable statutory provisions and regulations of the Commonwealth of Virginia and in the performance of this agreement (agreement) shall:

1. Not use or further disclose health records other than as permitted or required by the terms of this agreement or as required by law;
2. Use appropriate safeguards to prevent use or disclosure of health records other than as permitted by this agreement;
3. Report to the Department of Health any use or disclosure of health records not provided for by this Agreement;
4. Mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of health records by the Contractor in violation of the requirements of this agreement;
5. Impose the same requirements and restrictions contained in this agreement on its subcontractors and agents;
6. Provide access to health records contained in its records to the Department of Health, in the time and manner designated by the Department of Health, or at the request of the Department of Health, to an individual in order to afford access as required by law;
7. Make available health records in its records to the Department of Health for amendment and incorporate any amendments to health records in its records at the Department of Health request; and
8. Document and provide to the Department of Health information relating to disclosures of health records as required for the Department of Health to respond to a request by an individual for an accounting of disclosures of health records.

I. ANTI-DISCRIMINATION: By submitting this agreement contractor certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a

bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - d. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.
 - e. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

J. DEFAULT: In case of failure to deliver goods or services in accordance with the agreement terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

K. INSURANCE: By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.

2. Employer's Liability - \$100,000.

3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury

and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.

4. Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)

5. Health Care Practitioner - \$2,150,000 per occurrence, \$4,250,000 aggregate

L. NONDISCRIMINATION OF CONTRACTORS: A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

M. SERVICE ORGANIZATION CONTROLS:

Service Organization Controls (SOC2) may be required for this contract.

Please see link for requirements:

http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/10305.pdf

CERTIFICATION OF INTERNAL CONTROLS: The contractor shall have clearly delineated processes and procedures for the internal control of sensitive data and processes, which are any data and processes of which the compromising of confidentiality, integrity, and/or availability could have a material adverse effect on Commonwealth of Virginia interests, the conduct of agency programs, or to the privacy of which individuals are entitled, when such sensitive data or processes are related to the goods and/or services provided pursuant to this agreement.

The contractor shall provide evidence of compliant and ongoing internal control of sensitive data and processes through a standard methodology, such as but without limitation the American Institute of Certified Public Accountant (AICPA) Service Organization Control (SOC) Reports. The evidence of compliance shall be contained in a report describing the effectiveness of the contractor's internal controls. The most recent version of the report shall be provided to the purchasing office upon request. Trade secrets or proprietary information contained within the report shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the contractor must invoke the protection of Code of Virginia, § 2.2-4342F, in writing, prior to or upon submission of the report, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

If deficiencies in the contractor's internal control processes and procedures are described in the most recent version of the report, the contractor shall automatically submit the report to the purchasing office within a timely manner and shall describe the corrective actions to be put into place by the contractor to remedy the deficiencies. Failure to report and/or repair deficiencies in a timely manner shall be cause for the Commonwealth to make a determination of breach of contract.

The contractor's obligations for certification of internal controls shall survive and continue after completion of this agreement unless the contractor certifies the destruction of the sensitive data at the end of the contract term.

N. CONTINUITY OF SERVICES:

- a.) The Contractor recognizes that the services under this contract are vital to the Agency and must be continued without interruption and that, upon contract expiration, a successor, either the Agency or another contractor, may continue them. The Contractor agrees:
 - (i) To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor;
 - (ii) To make all Agency owned facilities, equipment, and data available to any successor at an appropriate time prior to the expiration of the contract to facilitate transition to successor; and
 - (iii) That the Agency Contracting Officer shall have final authority to resolve disputes related to the transition of the contract from the Contractor to its successor.

- b) The Contractor shall, upon written notice from the Contract Officer, furnish phase-in/phase-out services for up to ninety (90) days after this contract expires and shall negotiate in good faith a plan with the successor to execute the phase-in/phase-out services. This plan shall be subject to the Contract Officer's approval.

- c) The Contractor shall be reimbursed for all reasonable, pre-approved phase-in/phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract. All phase-in/phase-out work fees must be approved by the Contract Officer in writing prior to commencement of said work.

Except as provided herein, all terms and conditions of Contract Number 705BJ632554, as heretofore changed, remained unchanged and in full force and effect.

CITY OF HAMPTON:	VIRGINIA DEPARTMENT OF HEALTH:
By:	By:
Print or Type Name:	Print or Type Name:
Title:	Title:
Date:	Date:
FIN#:	
DUNS#:	

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment.

**CITY OF HAMPTON
OFFICE OF THE CITY ATTORNEY**
 Approved as to form and legal sufficiency
 Date: 9/19/17

 City Attorney