

34077

SUBAWARD

BETWEEN THE

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

AND

LANCASTER COUNTY

AMENDMENT TWO, JANUARY 2018

This agreement is entered into by and between the Nebraska Department of Health and Human Services, **DIVISION OF CHILDREN AND FAMILY SERVICES CHILD SUPPORT ENFORCEMENT** (hereinafter "DHHS"), and **LANCASTER COUNTY** (hereinafter "Subrecipient").

The agreement between the parties dated October 1, 2016 is hereby further amended as follows:

Effective April 1, 2018, the following paragraph of Article II, Amount of Subaward, Section B. is hereby deleted in its entirety from this agreement.

In addition to the above, DHHS will make an incentive payment at the end of each quarter to the Subrecipient equal to fifteen (15) percent of any amount collected to reimburse medical expenses during that quarter.

Effective upon execution of this amendment, Article III, Statement of Work, Section B., Paragraph 5. is amended to read:

5. In performance of this subaward, the subrecipient agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

All work will be performed under the supervision of the subrecipient or the subrecipient's responsible employees.

The subrecipient and the subrecipient's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.

Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this subaward. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this subaward. Inspection by or disclosure to anyone other than an officer or employee of the subaward or is prohibited.

All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

No work involving returns and return information furnished under this subaward will be subawarded without prior written approval of the IRS.

The subrecipient will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.

The agency will have the right to void the subaward if the subrecipient fails to provide the safeguards described above.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this subaward. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this subaward. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRCs 72134 and 7431 and set forth at 26CFR 301 .6103(n)-1 .

Additionally, it is incumbent upon the subrecipient to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to subrecipients by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a subrecipient, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

Granting a subrecipient access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Subrecipients must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, subrecipients must be advised of the provisions of IRCs 7431, 7213, and 72134 (see Exhibit 4, Sanctions for Unauthorized Disclosure, and Exhibit 5, Civil Damages for Unauthorized Disclosure. The training provided before the initial certification annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10). For both the initial certification and the annual certification, the subrecipient must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

The IRS and the Agency, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the subrecipient to inspect facilities and operations performing any work with FTI under this subaward for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the subrecipient is found to be noncompliant with subaward safeguards.

All other terms, conditions, and any prior amendments, to the extent not superseded herein, remain in full force and effect.

IN WITNESS THEREOF, the parties have duly executed this subaward hereto, and each party acknowledges the receipt of a duly executed copy of this subaward with original signatures.

FOR DHHS:

FOR SUBRECIPIENT:

Signature

Signature

Matthew T. Wallen, Director
Division of Children & Family Services
Department of Health and Human Services

County Board Chairperson

DATE: _____

DATE: _____