

North Carolina Council on Developmental Disabilities (NCCDD)

Updated September 15, 2023

Questions and Answers from Previous Bidders' Workshops

- 1. Who owns the copyright of guides and/or materials? What rights does our organization have to the materials? What about proprietary material that may be included in the guide from our original program? And, what happens to this?**

Answer: Please see Attachment IV – NCCDD Assurances, #'s 27, 28, and 29 that addresses these questions.

- 2. Does the DD Suite have character limitations?**

Answer: Yes. In the Project Outline section for this Community Living Mini-Grants RFA, the character limits are 5,000 characters for each question.

- 3. Does an applicant who created an account in DD Suite for a previous fund release have to create a new one to apply for this fund release?**

Answer: No.

- 4. Can the successful applicant make changes to the proposal in years two and three? [This does not apply to NCCDD's 2023 Community Living Mini-Grants RFA.]**

Answer: Yes. All sections of the DD Suite application are reviewed annually and revised, as needed, to achieve the proposed outcomes.

- 5. Are there fields in the DD Suite that if left blank will prevent application submission?**

Answer: Yes. Please refer to the DD Suite Help/Technical Assistance section if you experience this, and in the search field key in the application section in which you are working.

- 6. Please explain about the "Old Performance Measures" versus the new Federal Performance Measures in the Work Plan section of the DD Suite application?**

Answer: In the Work Plan section, after entering an objective and activities, you may select performance measures created by the Administration on Intellectual and Developmental Disabilities (now known as the Office of Intellectual and Developmental Disabilities) to accommodate the reporting requirements for FFY 2017-2021 and 2022-2026. Any pre-FFY 2017 performance measures that are listed in the Work Plan section will be greyed-out and cannot be selected. As of 7/11/2022, the Performance Measures are available for review @ <https://itacchelp.org/wp-content/uploads/2022/02/FY-20-Performance-measures-short-version.pdf>

7. May a hard copy of a proposal be submitted in lieu of proposals submitted through DD Suite?

Answer: No. NCCDD requires that all 2023 Community Living Mini-Grants RFA applications be submitted in the DD Suite platform.

8. Where can an organization go to get an indirect cost rate?

Answer: For non-profits, please see: <https://www.usaid.gov/work-usaid/resources-for-partners/indirect-cost-rate-guide-non-profit-organizations>,
or: <https://www.dol.gov/oasam/boc/costdeterminationguide/cdg.pdf>

9. We are exploring hiring a new person to assist with managing this project, but there will be staff time required for communications, accounting, Executive Director time involved as well.

In the section referring to Collective Impact: 5.) Backbone Support states that "an independent funded staff dedicated to the initiative" will provide support by guiding the initiative.

Is it acceptable to bill personnel/fringe for staff working some hours on this initiative but not exclusively?

Is it required that we have one staff that is exclusively project director for this grant (with no other duties), or is this an independent staff merely a general best practice regarding the implementation of Collective Impact initiatives?

Answer: Yes, it is acceptable to have personnel/fringe for staff working some hours on the initiative. The budget should show under the Salaries budget category with total hours, hourly rate, and for how many months. If the hourly rate exceeds \$50 per hour, it requires review and approval. It is a general best practice.

10. If we are able to bill other staff time to the grant (i.e. 2 hours a week of communications director time), are we still correct in our understanding that *only grant staff hired exclusively* for this initiative will be able to request reimbursement for travel expenses? And is the 100 miles per day reimbursement at 53.5 cents/mile per person traveling on the initiative or per total initiative travel?

Answer: Yes, only grant staff hire exclusively for the initiative will be able to request reimbursement for travel expenses under the Staff Travel budget category.

The mileage reimbursement per person is 65.5 cents per mile, regardless of the number of miles (NOTE: NC DHHS policy changed as of 7/1/2021 to not reimburse differently for 100 miles or less than 101 miles and more).

11. Does the DD Funds budget limit include indirect costs, or are indirect costs in addition to the DD Funds limit?

Answer: The DD Funds would include indirect costs.

12. Does “poverty county” mean Tier 1 county as determined by the NC Department of Commerce?

Answer: These are the current counties we have listed as poverty counties (see ITACC Guidance on Urban and Rural Poverty Areas as of 2018 - <https://itacchelp.org/wp-content/uploads/2021/12/Urban-and-Rural-Poverty-Areas-updated-2018.pdf>):

2022 Tier 1 NC Poverty Counties:

Anson, Bertie, Bladen, Burke, Caldwell, Caswell, Cherokee, Chowan, Cleveland, Columbus, Cumberland, Duplin, Edgecombe, Graham, Greene, Halifax, Hertford, Hoke, Hyde, Jones, Lenoir, Martin, Mitchell, Nash, Northampton, Pasquotank, Richmond, Robeson, Rockingham, Rutherford, Sampson, Scotland, Swain, Tyrrell, Vance, Warren, Washington, Wayne, Wilkes, Wilson

13. If we are in a poverty county, is our required match 10% or 25%?

Answer: If a selected vendor is located in poverty county, the match requirement will be adjusted. Poverty counties have a 10% match requirement. (NOTE as current at least as of 7/11/2022) – The DD Act indicates a Council can pay 90% of the cost of a project, activities, or products that ‘target individuals with developmental disabilities who live in urban or rural poverty areas’ – The key word is target – this means the work (a Council project, activity or product) must be focused on people with I/DD who live in a Census Bureau identified urban or rural poverty area.

14. The “Required Attachments” pdf has duplicates of the Project Profile (p. 1 and p. 15), and the Verification of 501C(3) Status (p. 17 and p. 18). Should we submit two copies of those attachments?

Answer: No – they’re just duplicates included in error. Use the p. 17 Verification of 501c(3) that is just for the State of NC.

**15. The Required Attachments pdf does not seem to include:
Verification of Work Authorization of Employees**

Retailer’s Obligation to Collect Tax

Department of Public Safety Study

Are these required, and if so, where can we find them?

Answer: We do not require those documents.

16. What is the “Proposal Execution page”? (The Federal Certifications page must be signed by the person who signed the “Proposal Execution page.”)

Answer: That will be the actual contract that gets executed by NCCDD with the selected vendor.

17. What is required coverage for general liability insurance and Worker's Compensation for the grant RFA?

Answer: Please see Attachment III, within this document: The General Terms and Conditions document that includes information on Indemnity and Insurance as well as in the NCCDD Assurances, Attachment IV.

18. Does the project proposed for funding have to be new, or can it be expansion of an existing program?

Answer: It can be either one.

19. The RFA notes that: "Non-profit applicants must be registered with the North Carolina Secretary of State to conduct business in North Carolina, or be willing to complete the registration process in conjunction with the execution of the contract documents." Are non-profit agencies which are located outside of North Carolina eligible to apply for this RFA?

If so, would out of state agencies potentially receive less or no preference during application review as compared to applicants located in and primarily serving North Carolina?

- a) Answer: Yes. All non-profits, university, not-for-profit, for-profit, or government agency are eligible to apply for this RFA whether they are in state or out of state. All organizations not registered to do business in the State of North Carolina will need to complete the required paperwork with the NC Secretary of State's office if awarded the contract. Information can be found at: <https://www.sosnc.gov/>.

- b) Answer: Applications will not be treated differently based on the state the organization is located. However, the grant activities are to be conducted in North Carolina and focus on the North Carolina service system.

20. Can a grantee hold two Council grants concurrently?

Answer: Yes.

21. The RFA mentions using Collective Impact in our response to this initiative. Where can I find out more about Collective Impact?

Answer: The Collective Impact model addresses issues where outcomes may be difficult to measure in the traditional sense. The NCCDD has more information about the components of the Collective Impact model on the Council's website.

22. What are narrative headings and page requirements within this RFA?

Answer: All responses to the RFA are submitted online in [DD Suite](#) and have a total character limit of 5,000 characters for each question instead of page limits.

23. How are RFA reviewers or board members selected to review applications?

Answer: The NCCDD will select a panel of individuals to review RFA applications. These individuals will be comprised of Council members and content experts in the subject matter of the RFA.

24. I am assuming the NCCDD RFAs are NC specific?

Answer: While we hope that the findings from an initiative will have national implications, the scope of work is limited to the state of North Carolina.

25. What is the indirect cost percent, policy and guideline for this grant?

Answer: Indirect cost rate negotiated with the Department of Health and Human Services Regional Comptroller or other similar federal agency may be used to compute indirect costs. Expenditures included as indirect costs may *not* be duplicated elsewhere in the budget. A copy of the applicant's Negotiation Agreement must be included with the grant application. *Indirect/overhead costs may not exceed 15% of the total project*

cost or \$20,000, whichever is less. If your agency's indirect costs exceed 15% of the total project cost or \$20,000, you may count the amount over and above as part of your required match. Please see Attachment I - General Indirect Cost Information.

26. What specific budget specifications/guidelines are necessary for personnel and travel across NC?

Answer: Per NC DHHS General Terms and Conditions of contracts regarding travel expenses, reimbursement to the Contractor for travel mileage, meals, lodging and other travel expense incurred in the performance of this contract shall not exceed the rates published in the applicable State rules. International travel shall not be reimbursed under this contract. Please see Attachment II - Travel Policies and Attachment III - General Terms and Conditions of the contract.

27. What is NCCDD Match?

Answer: Match is the non-federal share of cost that the contractor or contractor's partners are required to contribute to accomplish the purposes of the contract.

The structure of the match requirement is to promote sustainability of the contracts after the end of the contract.

There are two types of match.

- a) CASH Match Contribution is an actual expenditure (cash) contribution and it can be:
- the contractor organization's own funds (general revenue),
 - cash donations from non-federal third parties (like a partner organization), and
 - by non-federal grants.

- b) IN-KIND Match Contribution can come from the contractor organization and third parties. The typical forms are value of donated Goods and Services, and can be direct or indirect cost.

Goods are items that are tangible such as supplies.

Services are activities provide by someone else.

Example: labor (personnel), space, training, supplies, equipment and services

Labor Example: volunteers from a local school or consultants from a no-profit agency lead a training event

Space Example: if a training takes place in donated office or large meeting space, the market value of renting that space may be counted.

Can be expendable or non-expendable personal property.

Expendable = (equipment, office, workshop supplies and cannot exceed the fair market value)

Un-expendable = (land, building, equipment)

28. Do you have the entire year to meet the Match?

Answer: Yes. Contractors have the entire contract year to meet the minimum non-federal match requirement.

29. Can personnel time given from university staff be counted as part of the In-Kind match?

Answer: Yes, as long the match is related to the initiative, the personnel is not federally funded, and is shown under In-Kind match.

30. Is it acceptable to have multiple contacts on this initiative? If so, how can multiple contacts be added into DD Suite?

Answer: Multiple contacts for your organization can be added when you set up a DD Suite Account. Click on this link to register your organization in DD Suite and establish an account: <https://www.ddsuite.org/>.

31. Do the required attachments need to be uploaded as one document or can they be uploaded separately?

Answer: DD Suite has a limitation on the number of attachments for RFAs. Therefore, the completed required documents need to be uploaded as one document.

32. We are a university with a federally negotiated indirect cost that is higher than the Council's maximum allowed rate. If we provide the documentation for the approved higher indirect cost, can we count the difference between the Council's maximum

allowable indirect cost - 15% or \$20,000, whichever is less, and the university's federally negotiated rate as part of our match for this grant?

Answer: Yes. The difference can be used as part of your match if you provide the official document that approves your university's federally negotiated indirect cost rate.

33. When will we get access to the application package on DD Suite?

Answer: You can get access to the RFA and all the attachments on DD Suite immediately by clicking on the following link:

https://www.ddsuite.org/?nofa_id=2096

However, you need an account with DD Suite to respond to the RFA. Complete the registration process by clicking on this link: <https://www.ddsuite.org/users/register>.

34. Will the Council members decide what to do with this RFA?

Answer: NCCDD members and staff work together to develop the RFA. Applications submitted in response to the RFA are reviewed by an Application Review Committee. This 3 to 5-member committee comes together to discuss application submissions and develop a recommendation to the Council. The application review committee is typically made up of Council members and others who are topic experts or topic champions.

35. Do members of the same organization need different DD Suite accounts for the same initiative?

Answer: No. After the primary organization account is created, new users may be added to that account. See Joining an Organization here: <https://www.ddsuite.org/TA>

36. Can the match fee come from a combination of different organizations?

Answer: Yes. However, match cannot come from federal funds.

37. If an applicant already has a contract with NCCDD, does the applicant need to submit the required documents again?

Answer: No, as long as the contracts are within the same fiscal year.

38. Is preliminary information given to the award recipient prior to the contract start date?

Answer: Yes. The Council-approved applicant, as well as all applicants in response to the RFA, will be contacted within 14 days following the quarterly Council meeting in which the Council makes a funding decision regarding the RFA.

39. Are for-profit entities allowed to apply for the RFA?

Answer: Yes. Applications are welcomed from any university, non-profit, for profit, or government agency that demonstrates that their agency is qualified, responsible, and capable of conducting the activities described. *NOTE: Private non-profit and for-profit applicants must be registered with the North Carolina Secretary of State to conduct business in North Carolina, or be willing to complete the registration process in conjunction with the execution of the contract documents (see www.sosnc.gov/corporations). Should a non-profit private entity be awarded a contract through the RFA process with the NCCDD, the non-profit private entity must then also submit proof of 501(c)(3) status with a **current IRS determination letter**.*

Attachment I

GENERAL INDIRECT COST INFORMATION

An **Indirect Cost** is any cost not directly identified with a single, final cost objective, but identified with two or more final cost objectives. It is not subject to treatment as a direct cost. After direct costs have been determined in a contract budget or other work/activity, indirect costs are those remaining to be allocated. An indirect cost shall not be allocated to a final cost objective if other costs incurred for the same purpose in like circumstances have been included as a direct cost. In simpler terms, indirect costs are those costs not readily identified with a specific project or organizational activity but incurred for the joint benefit of both projects or activities. Indirect are normally grouped into common pools and charged to benefiting objectives through an allocation process or indirect cost rate. Indirect costs include costs which are frequently referred to as overhead expenses (rent and utilities) and general and administrative expenses (officers' salaries, accounting department costs and personnel department costs). An indirect cost rate is simply a device for determining fairly and expeditiously the proportion of general (non-direct) expenses that each project or activity will bear. It is the ratio between total indirect costs of an applicant and some equitable direct cost base. The indirect cost base or bases (that is, the denominator(s) of the fraction producing a rate) should be selected so as to permit an equitable distribution of indirect costs to the benefiting cost objective.

There are three basic types of indirect cost rates: (1) Provisional/Final; (2) Predetermined; and (3) Fixed with a Carry-Forward provision. The distinguishing difference between the rates lies

not in how they are developed or the type of costs they represent, but rather in whether and how they are adjusted to reflect actual costs.

A **Provisional rate** is to be used until a final rate has been determined. Cost principles clearly state that provisional rates are intended as a temporary measure for "interim reimbursement" pending the establishment of a final rate for that period. Provisional rates require retroactive adjustments to the final rate, which is later set, based on actual allowable costs incurred during the period. If the final (actual) rate is less than the provisional rate, the difference is owed back to the federal funding agency. On the other hand, if the final rate is higher than the provisional rate (an unusual occurrence), additional federal funds may be recovered if they are available at the time of adjustment. **A contract with a provisional rate must remain open until a final rate has been established and all costs settled based on the final rate.**

A **Predetermined rate** is firm; it cannot be adjusted. Therefore, before such a rate is approved, it must be assured that the actual rate is equal to or less than the predetermined rate, or that any overpayment that may occur when the rates are converted to dollars will be immaterial. If a contract provider agrees to recover less indirect costs than it is entitled to under federal cost principles may find the predetermined rate attractive because there is no after-the-fact adjustment and it knows how much indirect it will recover. The Fixed Rate with Carry-Forward has all the attributes of the other two rate types, but none of their disadvantages. A contract provider can adjust its estimated rate to an actual rate and it is not necessary to recover (or pay back) retroactive adjustments as it would with a provisional/final rate, or commit itself to an under recovery of costs as it might with a predetermined rate.

A copy of the indirect cost rate approved by the Federal cognizant agency must be attached. Where circumstances do not allow for the designation of a Federal cognizant agency, an indirect cost rate may be established as described in the following paragraphs. Under no circumstances can indirect costs in excess of the approved rate or amount be claimed for reimbursement or matching purposes. State agencies, if approved by the Office of State Budget and Management, may recover or be reimbursed for a portion of allowable indirect costs and utilize the unrecovered portion as certified public expenditures, or match, for the non-federal share of costs required under such a contract.

Many non-governmental entities receive federal funds/grants directly from a federal agency. The Federal cognizant agency approves (or disapproves) such an entity's indirect cost rate(s) on behalf of all federal agencies that provide funds to that organization. Once the Federal cognizant agency approves the rate, it is expected to be accepted by other agencies when determining the amount of indirect costs applicable to their contracts and programs. As a general rule, the cognizant agency is the federal agency that provides the largest amount of funds to a non-governmental entity over a certain period of time. Therefore, if a non-

governmental entity receives funding directly from a federal agency (or agencies), the Federal cognizant agency shall be established. The Federal cognizant agency may provide technical assistance and guidance to entities on how to prepare a proposal requesting establishment and approval of an indirect cost rate.

In situations where a non-governmental entity does not receive funds directly from a federal agency and where no Federal cognizant agency is designated, an indirect cost rate may be established using criteria and cost principles outlined in the applicable federal circular. Under these conditions, a person or firm, preferably one knowledgeable of this subject should establish the rate. This person or firm should not be associated with the audit firm that conducts an audit of the entity's records. Once a rate has been established, this person or firm should certify in writing to the non-governmental entity that the rate has been established in accordance with the applicable federal circular and that the documentation should be maintained and made available to any auditor requesting such information. The entity should also provide a copy of the letter to any and all agencies with whom they contract and from whom they wish to claim reimbursement of indirect costs.

If the contract budget includes indirect (or administrative) costs:

1. A Provider may include indirect costs in the contract budget for reimbursement if they have a (1) Predetermined indirect cost rate (not subject to adjustment); (2) Fixed rate (no recovery, over or under required) or (3) Provisional rate which requires adjustment to actual at a later time when actual costs have been determined by audit.
2. Review the contract funding source to determine possible limitations regarding administrative costs. Indirect costs are also considered administrative costs and must be considered when a federal funding source limits total administrative costs. That is, the total of direct administrative costs plus indirect costs cannot exceed limitations established by federal regulations for administrative purposes.
3. Official documentation of indirect cost is one of the two following documents and should cover at a minimum the period of the contract:
 - a. Official document from the cognizant federal agency approving the indirect cost rate
or
 - b. In the absence of a cognizant federal agency, the official letter or document from the independent source (not the Provider) approving the rate.
4. The Division should verify the indirect costs computation. Official documentation should include the basis for the determination and any line items (such as equipment or subcontract

costs over \$25,000) that are excluded from the determination. The Provider should not compute indirect costs on excluded line items or those with dollar limitations.

5. A copy of the official indirect cost documentation must be attached to the executed contract.

Note: Providers should be made aware of possible limitations on indirect costs and that official documentation must be submitted prior to the processing of their contract.

Attachment II

POLICIES GOVERNING TRAVEL RELATED EXPENSES FOR PROVIDERS

(Effective 7/1/21)

All Providers must comply with State travel, lodging and meals subsistence reimbursement regulations. Reimbursement for expenses is only allowable if stated in the contract. Public agencies should follow their agency's existing policies and procedures for the authorization of travel and subsistence. For complete and current travel policies and regulations, refer to the OSBM web site to access the State Budget Manual (<https://www.osbm.nc.gov/>). Below are the current rates of reimbursement.

A. TRANSPORTATION

1. Personal Vehicle – Actual mileage is reimbursable and measured from the closer of the assigned duty station or point of departure to your destination and return. The maximum rate that can be reimbursed for mileage is the business standard mileage rate set by the Internal Revenue Service (**62.5 cents/mile**); however, this may be negotiated at a lower rate. Parking fees, tolls, and storage fees are reimbursable when the required receipts are obtained. The State will not reimburse you for travel from your home to your duty station.
2. Common Carrier – You will be reimbursed for actual coach fare for air, rail, or bus travel if you submit receipts.
3. TRAVEL TIME – Time spent traveling may not count as hours of service.

B. SUBSISTENCE

1. **RATES** - Pursuant to G.S. 138-6(5), the Director of the Budget is required to revise subsistence payments for state employees' in-state and out-of-state travel. The revision is based on the percentage increase in the Consumer Price Index for All Urban Customers for the most recent 24-month period. Effective **July 1, 2021**, the Department of Health and Human Services (DHHS) shall utilize GSA State/City Standard Travel Per Diems as the maximum allowable statutory rate for meals and lodging (subsistence).

The maximum allowable statutory rate for meals and lodging in a 24-hour period is **\$152** for in-state travel and **\$152** for out-of-state travel. If you pay sales tax, lodging tax, local tax, or service fees associated with the cost of lodging, the State will reimburse you for these in addition to the lodging rate. You must submit receipts for the State to reimburse you for lodging expenses.

Use the following schedule for reporting allowable subsistence expenses incurred while traveling on official state business:

	In-State	Out-of State
Breakfast	\$ 13	\$ 13
Lunch	\$ 15	\$ 15
Dinner	\$ 26	\$ 26
Lodging (actual, up to)	<u>\$ 98</u> (actual, up to)	<u>\$ 98</u> (actual, up to)
Total	\$ 152	\$152

You may request reimbursement for actual expenses if they are less than the rates in this table. Out-of-State travel status begins when you leave your home or duty station and ends when you return to your home or duty station. Providers located out of North Carolina must use In-State travel allowances when traveling in North Carolina.

2. EXCESS LODGING COSTS – You must obtain advance authorization from the Secretary of the Department or his or her designee for lodging costs exceeding the stated rate above, regardless of destination. Check with the division contract office for appropriate procedures. You may be reimbursed for excess lodging costs when you are in a high cost area and unable to secure lodging within the current allowance, or when you submit a written opinion that personal safety or security is unattainable within the current allowance. The State will not reimburse you for excess lodging costs for reason of convenience or your personal preference. If the cost for lodging exceeds the maximum daily rate for lodging, but the total cost for food and lodging is equal to or less

than the total daily rate, you do not have to obtain approval from the Department for excess lodging costs.

3. MEALS

- a. Meals during Overnight Travel – The State will reimburse you for meals at the rate stated in the chart above when you are on official state business and your duties require overnight travel. The travel must involve a travel destination located at least 35 miles from your regularly assigned duty station (vicinity) or home, whichever is less.

The State will reimburse you for meals for partial days of travel when your duties require overnight travel. You will be reimbursed at the stated rate for meals in the following situations:

- Breakfast: If you depart your duty station prior to 6:00 a.m.
- Lunch: If you depart your duty station prior to Noon (day of departure) or return to your duty station after 2:00 p.m. (day of return).
- Dinner: If you depart your duty station prior to 5:00 p.m. (day of departure) or return to your duty station after 8:00 p.m. (day of return).

- b. **MEALS DURING DAY TRAVEL** – The State will not reimburse you for lunch if travel does not involve an overnight stay; however, you will be reimbursed at the stated rate for the morning and evening meals in the following situations:

- Breakfast: If you depart your duty station prior to 6:00 a.m. and extend the workday by 2 hours.
- Dinner: If you return to your duty station after 8:00 p.m. and extend the workday by 3 hours.

The travel must involve a travel destination at least 35 miles from your regularly assigned duty station (vicinity) or home, whichever is less.

- c. **EXCESS COSTS FOR MEALS** - The State will not reimburse you for the cost of meals above the stated rate unless such costs are included in registration fees and/or there are predetermined charges, or the meals were for out-of-country travel. The department head or his or her designee may authorize excess subsistence costs for meals for out-of-country travel. Check with the division contract office for appropriate procedures.

4. CONFERENCE REGISTRATION FEES

The State may reimburse you for registration fees if you submit a valid receipt or invoice. If conference registration includes the price of meals, you may not claim reimbursement of meals in addition to the reimbursement of the conference registration fee. Please note that registration fees consisting exclusively of meals are not reimbursable unless meeting the overnight travel criteria. A valid receipt/invoice contains: a) the name of the organization hosting the conference and the name/title of conference; b) the name of the person attending the conference and making payment; c) the amount paid; d) the date of payment; and e) the signature of the person accepting payment for the conference. If you must pay a registration fee in advance, include a properly executed conference registration form and a copy of the check when you request reimbursement.

Attachment III

GENERAL TERMS AND CONDITIONS

Relationships of the Parties

Independent Contractor: The Contractor is and shall be deemed to be an independent contractor in the performance of this contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Division.

Subcontracting: The Contractor shall not subcontract any of the work contemplated under this contract without prior written approval from the Division. Any approved subcontract shall be subject to all conditions of this contract. Only the subcontractors specified in the contract

documents are to be considered approved upon award of the contract. The Division shall not be obligated to pay for any work performed by any unapproved subcontractor. The Contractor shall be responsible for the performance of all of its subcontractors.

Assignment: No assignment of the Contractor's obligations or the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may:

- (a) Forward the Contractor's payment check(s) directly to any person or entity designated by the Contractor, or
- (b) Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check(s).

In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.

Beneficiaries: Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Division and the named Contractor. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Division and Contractor that any such person or entity, other than the Division or the Contractor, receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

Indemnity and Insurance

Indemnification: The Contractor agrees to indemnify and hold harmless the Division, the State of North Carolina, and any of their officers, agents and employees, from any claims of third parties arising out of any act or omission of the Contractor in connection with the performance of this contract.

- (a) **Insurance:** During the term of the contract, the Contractor shall provide, at its sole cost and expense, commercial insurance of such types and with such terms and limits as may be reasonably associated with the contract. At a minimum, the Contractor shall provide and maintain the following coverage and limits:

- (1) **Worker's Compensation Insurance:** The Contractor shall provide and maintain worker's compensation insurance, as required by the laws of the states in which its employees work, covering all of the Contractor's employees who are engaged in any work under the contract.

- (2) **Employer's Liability Insurance:** The Contractor shall provide employer's liability insurance, with minimum limits of \$500,000.00, covering all of the Contractor's employees who are engaged in any work under the contract.
- (3) **Commercial General Liability Insurance:** The Contractor shall provide commercial general liability insurance on a comprehensive broad form on an occurrence basis with a minimum combined single limit of \$1,000,000.00 for each occurrence.
- (4) **Automobile Liability Insurance:** The Contractor shall provide automobile liability insurance with a combined single limit of \$500,000.00 for bodily injury and property damage; a limit of \$500,000.00 for uninsured/under insured motorist coverage; and a limit of \$2,000.00 for medical payment coverage. The Contractor shall provide this insurance for all automobiles that are:
- (A) owned by the Contractor and used in the performance of this contract;
 - (B) hired by the Contractor and used in the performance of this contract; and
 - (C) owned by Contractor's employees and used in performance of this contract ("non-owned vehicle insurance"). Non-owned vehicle insurance protects employers when employees use their personal vehicles for work purposes. Non-owned vehicle insurance supplements, but does not replace, the car-owner's liability insurance.

The Contractor is not required to provide and maintain automobile liability insurance on any vehicle – owned, hired, or non-owned -- unless the vehicle is used in the performance of this contract.

- (b) The insurance coverage minimums specified in subparagraph (a) are exclusive of defense costs.
- (c) The Contractor understands and agrees that the insurance coverage minimums specified in subparagraph (a) are not limits, or caps, on the Contractor's liability or obligations under this contract.
- (d) The Contractor may obtain a waiver of any one or more of the requirements in subparagraph (a) by demonstrating that it has insurance that provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The Division shall be the sole judge of whether such a waiver should be granted.
- (e) The Contractor may obtain a waiver of any one or more of the requirements in paragraph (a) by demonstrating that it is self-insured and that its self-insurance provides protection

that is equal to or greater than the coverage and limits specified in subparagraph (a). The Division shall be the sole judge of whether such a waiver should be granted.

- (f) Providing and maintaining the types and amounts of insurance or self-insurance specified in this paragraph is a material obligation of the Contractor and is of the essence of this contract.
- (g) The Contractor shall only obtain insurance from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in the State of North Carolina. All such insurance shall meet all laws of the State of North Carolina.
- (h) The Contractor shall comply at all times with all lawful terms and conditions of its insurance policies and all lawful requirements of its insurer.
- (i) The Contractor shall require its subcontractors to comply with the requirements of this paragraph.
- (j) The Contractor shall demonstrate its compliance with the requirements of this paragraph by submitting certificates of insurance, if requested, to the Division before the Contractor begins work under this contract.

Default and Termination

Termination Without Cause: The Division may terminate this contract without cause by giving 30 days written notice to the Contractor.

Termination for Cause: If, through any cause, the Contractor shall fail to fulfill its obligations under this contract in a timely and proper manner, the Division shall have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Division, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Contractor shall not be relieved of liability to the Division for damages sustained by the Division by virtue of the Contractor's breach of this agreement, and the Division may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Division from such breach can be determined. In case of default by

the Contractor, without limiting any other remedies for breach available to it, the Division may procure the contract services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The filing of a petition for bankruptcy by the Contractor shall be an act of default under this contract.

Waiver of Default: Waiver by the Division of any default or breach in compliance with the terms of this contract by the Contractor shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this contract unless stated to be such in writing, signed by an authorized representative of the Department and the Contractor and attached to the contract.

Availability of Funds: The parties to this contract agree and understand that the payment of the sums specified in this contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Division.

Force Majeure: Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

Survival of Promises: All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

Intellectual Property Rights

Copyrights and Ownership of Deliverables: All deliverable items produced pursuant to this contract are the exclusive property of the Division. The Contractor shall not assert a claim of copyright or other property interest in such deliverables.

Federal Intellectual Property Bankruptcy Protection Act: The Parties agree that the Division shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365 (n) and any amendments thereto.

Compliance with Applicable Laws

Compliance with Laws: The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

Equal Employment Opportunity: The Contractor shall comply with all federal and State laws relating to equal employment opportunity.

Health Insurance Portability and Accountability Act (HIPAA): The Contractor agrees that, if the Division determines that some or all of the activities within the scope of this contract are subject to the Health Insurance Portability and Accountability Act of 1996, P.L. 104-91, as amended (“HIPAA”), or its implementing regulations, it will comply with the HIPAA requirements and will execute such agreements and practices as the Division may require to ensure compliance.

Executive Order # 24: It is unlawful for any vendor, contractor, subcontractor or supplier of the state to make gifts or to give favors to any state employee. For additional information regarding the specific requirements and exemptions, contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Confidentiality

Confidentiality: Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Division. The Contractor acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this contract.

Oversight

Access to Persons and Records: The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

Record Retention: Records shall not be destroyed, purged or disposed of without the express written consent of the Division. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to federal policy and regulations, record retention may be longer than five years since records must be retained for a period of three years following

submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period described above, whichever is later. The record retention period for Temporary Assistance for Needy Families (TANF) and MEDICAID and Medical Assistance grants and programs must be retained for a minimum of ten years.

Warranties and Certifications

Date and Time Warranty: The Contractor warrants that the product(s) and service(s) furnished pursuant to this contract ("product" includes, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) that perform any date and/or time data recognition function, calculation, or sequencing will support a four digit year format and will provide accurate date/time data and leap year calculations. This warranty shall survive the termination or expiration of this contract.

Certification Regarding Collection of Taxes: G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors that meet one of the conditions of G.S. 105-164.8(b) and yet refuse to collect use taxes on sales of tangible personal property to purchasers in North Carolina. The conditions include: (a) maintenance of a retail establishment or office; (b) presence of representatives in the State that solicit sales or transact business on behalf of the vendor; and (c) systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. The Contractor certifies that it and all of its affiliates (if any) collect all required taxes.

Miscellaneous

Choice of Law: The validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties to this contract, are governed by the laws of North Carolina. The Contractor, by signing this contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

Amendment: This contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Division and the Contractor. The Purchase and Contract Divisions of the NC Department of Administration and the NC Department of Health and Human Services shall give prior approval to any amendment to a contract awarded through those offices.

Severability: In the event that a court of competent jurisdiction holds that a provision or requirement of this contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this contract shall remain in full force and effect.

Headings: The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

Time of the Essence: Time is of the essence in the performance of this contract.

Key Personnel: The Contractor shall not replace any of the key personnel assigned to the performance of this contract without the prior written approval of the Division. The term "key personnel" includes any and all persons identified by as such in the contract documents and any other persons subsequently identified as key personnel by the written agreement of the parties.

Care of Property: The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this contract and will reimburse the Division for loss of, or damage to, such property. At the termination of this contract, the Contractor shall contact the Division for instructions as to the disposition of such property and shall comply with these instructions.

Travel Expenses: Reimbursement to the Contractor for travel mileage, meals, lodging and other travel expenses incurred in the performance of this contract shall not exceed the rates published in the applicable State rules. International travel shall not be reimbursed under this contract.

Sales/Use Tax Refunds: If eligible, the Contractor and all subcontractors shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

Advertising: The Contractor shall not use the award of this contract as a part of any news release or commercial advertising.

Attachment IV

NCCDD ASSURANCES

THE APPLICANT AGREES:

- 1. That it possesses legal authority to apply for the grant and to finalize the proposed grant; that a resolution, motion, or similar action supporting the proposed grant has been adopted or passed as an official act of the application; and that it will provide such additional information as may be required.**
- 2. To provide services as specified in the grant application in accordance with the provisions of the Developmental Disabilities Bill of Rights and Assistance Act of 2000, P.L. 106-402 (DD Act), and with all regulations promulgated under the Act.**
- 3. To furnish information to the NCCDD as required to support the full cost of service(s) as described in the grant application.**
- 4. To comply with all applicable state licensing standards, all applicable accrediting standards, and any other standards or criteria established by state or federal law to assure quality of service(s).**
- 5. To accept responsibility for adherence to sound fiscal and administrative procedures.**
- 6. That the use or disclosure of consumer information obtained in connection with the administration of the grant is restricted to purposes directly connected with the administration of DD Act funds.**
- 7. That any direct services provided to an individual with an intellectual or other developmental disability through the grant will be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities and capabilities of the individual and his or her family.**
- 8. To use "people first" language, as described in the NCCDD publication of the same name, when communicating with, writing about, and referring to persons with intellectual and other developmental disabilities in the conduct and administration of DD Act funds.**
- 9. To comply with all state and federal rules, regulations, and policies protecting the human rights of people with intellectual and other developmental disabilities and, specifically, to avoid or discontinue the use of aversive therapies and procedures and inappropriate uses of**

physical or mechanical restraints and seclusion to modify the behavior of people with intellectual or other developmental disabilities.

10. Services and facilities furnished for people with intellectual and other developmental disabilities are in accordance with all applicable standards prescribed by federal and state laws and regulations.

11. That, at all times during the term of the grant, the grantee will indemnify and hold harmless, to the extent allowable by law, the NCCDD and the Department of Health and Human Services (DHHS) against liability, loss, damage, costs or expenses to pay by reason of any consumer's suffering, personal injury, death, or property loss or damage while participating in or receiving from the grantee services to be furnished by the grantee under the terms and conditions of the grant.

12. To comply with Title VII of the Civil Rights Act of 1964 and all regulations promulgated under the Act.

13. To comply with all applicable provisions of the Americans with Disabilities Act (ADA) and all applicable regulations promulgated under the Act.

14. To develop and implement an affirmative action plan.

15. To employ and advance in employment qualified persons with intellectual and other developmental disabilities whenever possible.

16. To comply with the Rehabilitation Act of 1992 and all applicable regulations promulgated under the act.

17. To maintain time records for all salaried staff who work less than 100% of their time in the program.

18. That no employee or volunteer, without providing justification in writing to the NCCDD, may utilize a percentage of his/her time for match or to procure federal funds, which percentage of time is incompatible with commitments to other endeavors, paid or volunteer, which occur during the time period that person is obligated to the NCCDD grant.

19. That any employee, officer, or director of such agency cannot participate on any review committee of the NCCDD voting on its own application, and that any employee, officer, or director of such agency making an appeal to the NCCDD cannot participate in the review of that appeal.

20. That any employee, officer, or director of such agency shall avoid using his or her position for private gain, giving preferential treatment to any person, or affecting adversely the confidence of the public in the integrity of such agency and/or the NCCDD.

21. That the grant will maximize the use of all community resources, including volunteers and appropriate voluntary organizations.

22. That ownership of all property and equipment purchased with NCCDD funds shall remain with the NCCDD.

23. To maintain and administer, in accordance with sound business practices, a program for the maintenance, repair, protection and preservation of all property and equipment purchased with NCCDD funds that is associated with grant activities, to assure its continued availability.

24. To obtain prior written approval from the NCCDD before subcontracting any work contemplated. Grantees are encouraged to use qualified minority firms where possible. Any approved subcontracts shall be subject to all conditions of these assurances.

25. To submit to the NCCDD quarterly programmatic and monthly fiscal reports as required and in the manner described as follows:

Quarterly programmatic reports will be submitted by the grantee into the NCCDD database, DD Suite.

Not less than monthly, a request for reimbursement or a report of outlays, showing expenditures, both federal and non-federal, will be submitted to NCCDD by the 10th day following the end of each month. While no moneys may have been expended (in such case, all entries will be zeros), these monthly requests are mandatory. Expenditures in arrears more than sixty (60) days, or two months after the period for which the grant is funded, will not be reimbursable, and a negative grant award will be issued where there is no good cause for the delay;

Not more than thirty (30) days after the end date of this contract, a final request for reimbursement or report of outlays for expenditures covered under this agreement will be submitted to NCCDD. After thirty (30) days, the most recent request for reimbursement or report of outlays received by the Council will be considered to be the final request.

No request for reimbursement will be submitted for any encumbrance made after the end date of this contract.

26. To maintain program and fiscal reports required by the NCCDD and to agree that a programmatic, facilities and/or fiscal review may be conducted by state and/or federal personnel and other persons authorized by the NCCDD.

27. That the NCCDD may duplicate, use and disclose all data delivered under the terms of this grant within the boundaries of regulations pertaining to confidentiality of consumer information; that the NCCDD has a royalty-free, non-exclusive and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of all data, and to authorize others to do so, now or hereafter covered by copyright; provided that with respect to data not originated in the performance of this grant, such license shall be only to the extent that the grantee has the right to grant such license without becoming liable to pay compensation to others because of such grant.

28. That the publication of manuals and/or brochures will be reviewed by and receive prior approval from the NCCDD before the printing and distribution of such material.

29. That all reports, studies, statements, press releases, conferences or workshops, requests for applications, bid solicitations, or other documents made as the result of this grant will acknowledge the support provided by the NCCDD, and will state the percentage and dollar amount of federal and non-federal resources associated with the grant. (The following is an example for a grantee funded at a 25%-75% ratio: "This initiative is supported at 25% (\$XX.XX) by name of your agency and at 75% (\$XX.XX) by the North Carolina Council on Developmental Disabilities and the funds it receives through P.L. 106-402, the Developmental Disabilities Bill of Rights and Assistance Act of 2000.")

30. To certify that the NCCDD funds used for this grant do not replace or supplant, in any way, non-federal funds for already existing services.

31. To certify that the NCCDD funds are not used for activities that the grantee is already mandated by law to provide.

32. To participate in program, fiscal and administrative monitoring, and to make records and staff time available to the NCCDD.

33. To participate in an evaluation conducted by the NCCDD, or an evaluation conducted by a third party in coordination with the NCCDD, to evaluate the impact of the grant.

34. That it is expressly understood and agreed that the services provided by this grant for which funds have been received from the NCCDD, or for which funds have been designated as match for funds received from the NCCDD, shall consist exclusively of those services specified

in the contract. The NCCDD will not be responsible for reimbursement of pre-award expenses.

35. That payment of NCCDD funds to the grantee will be made monthly with total compensation not to exceed the total, federal share awarded to the project, and that payment will be based on approval by the NCCDD of monthly expense reports and quarterly program reports submitted by the grantee. Requests for payment of NCCDD funds to the grantee will be made on the basis of one of the following requests submitted by the project and approved by the NCCDD:

(A) Requests for reimbursement to the grantee of actual expenditures incurred by the initiative during the reporting period, or

(B) Requests for advancement of funds to the grantee based on estimated costs if the grantee is not a North Carolina State governmental agency, institution, or department.

36. To comply with non-federal matching requirements in its first and/or second and/or third funding period (if a second and/or third funding period is warranted and approved) using the following percentages, unless such requirement is waived by NCCDD:

Funding Period	Non-Poverty County	Poverty County
1st	75% Fed, 25% Local	90% Fed, 10% Local
2nd	60% Fed, 40% Local	75% Fed, 25% Local
3rd	50% Fed, 50% Local	60% Fed, 40% Local

37. That any grant which may acquire income as a result of the grant must be accountable for this income. Income may include, but will not be limited to, income from service fees, sale of commodities, use of rental fees, sale of assets purchased with grant funds, and royalties on patents and copyrights.

(1) Income may be deducted from total grant costs. Under this alternative, the recipient must use the income to reduce the amount of federal and other funds needed to pay the allowable costs of the initiative.

(2) Income may be used for costs that count toward satisfying a cost-sharing or matching requirement. The income, when received, must be used to provide the cost-sharing or match before grant funds are used.

(3) Income may be used for costs that further the objectives of the statute under which the grant is made, but which are not part of the grantee's budget. *This method is currently the method required by the NCCDD. Income used in this fashion is not deducted from the total grant costs when completing the "Request for Reimbursement" forms.*

38. That the NCCDD may, from time to time, require changes in the scope of the services of the grant to be performed under the grant. Such changes, including any increase or decrease in the amount of the grantee's compensation which are mutually agreed upon by and between the grantee and the NCCDD, shall be incorporated in written amendments to the contract, after being approved by the NCCDD.

39. That the grantee shall not change the scope of the services specified in the approved contract without the prior written approval from the NCCDD.

40. That it is further understood and agreed that the provision of services pursuant to this grant shall be subject to the limitations, guidelines, and plans cited in the contract.

This certification for Assurances #1 through #40 is a material representation of fact upon which reliance was placed when the contract was made or entered into. Submission of this certification is a prerequisite for making or entering into the contract.

Certifying Organization (Please Print)

Certifying Signature

Title

Date