

AGREEMENT

Between

Sedgwick County Health Department

And

The Kansas Department of Health and Environment

The Parties to this Agreement are:

- Sedgwick County Health Department
1900 E Ninth Street N
Wichita, KS 67214-3115
- Kansas Department of Health and Environment
1000 SW Jackson, Suite 340
Topeka, Kansas 66612

RECITALS

The Kansas Department of Health and Environment [KDHE] through the Bureau of Community Health Systems [BCHS] desires to build and strengthen the abilities of public health departments to respond effectively to public health threats, whether they are natural, unintentional, or intentional events, through the Public Health Emergency Preparedness cooperative agreement [PHEP]; and,

The Sedgwick County Health Department [Local Agency] desires to and is able to facilitate KDHE's goal through support, preparedness, and response activities in the PHEP.

TERMS AND CONDITIONS

KDHE and Local Agency agree as follows.

1. This Agreement shall be effective on the day and year executed by the Secretary of the KDHE [Secretary].
2. The total payments to the Local Agency under this Agreement shall not exceed Three Hundred Forty-Three Thousand Three Hundred Seventeen Dollars (\$343,317.00).
3. The term of this Agreement is from August 10, 2012, through June 30, 2013, at 5:00 p.m., unless terminated earlier by written agreement of the parties or in accord with the provisions set forth in this Agreement.

4. The provisions found in the Contractual Provisions Attachment (Form DA-146a), which is attached, are hereby incorporated in this Agreement and made a part hereof.
5. The terms and conditions of this Agreement may be amended in writing and executed by both parties.
6. Payments to the Local Agency hereunder are solely contingent upon the receipt of adequate funding by BCHS through federal grants.
7. In the event that Local Agency is unable to expend all of the funds allocated, Local Agency shall notify KDHE in writing of the amount of unspent funds. KDHE may request a refund of unspent funds at the end of the grant period.
8. The Local Agency will not subcontract any work under the Agreement without the express, written approval of KDHE prior to entering said subcontracts. Submission and approval of subcontracts must occur before any payment under this Agreement is final. Failure to obtain approval of a subcontract may result in such actions as KDHE may find appropriate, including, but not limited to, the withholding of funds, the disallowance of expenditures made to the subcontractor, the reimbursement from the Local Agency of expenditures paid, or the termination of this Agreement. The Local Agency shall be totally responsible for all actions and work performed by its subcontractor(s). All terms, conditions, and requirements of this Agreement shall apply without qualification to each subcontractor of the Local Agency. For the purposes of this Agreement, the term "Local Agency" shall include all subcontractors hired by the Local Agency.
9. Payment(s) may be withheld if any required Program/Fiscal Reports and/or refunds for any previous period have not been received, or if program requirements/objectives are not met as specified in this agreement and/or the Agreement Attachment(s).
10. KDHE may cancel this Agreement or withhold payment(s) if the Local Agency fails to submit supporting documentation of Work Plan deliverable completion and financial reports as required herein below.

LOCAL AGENCY SHALL:

11. Return the signed Agreement to KDHE by August 30, 2012.
12. Submit a Budget to KDHE by August 30, 2012 on the forms specified by KDHE.
13. Perform all tasks required in the work plan as listed below:
 - a. Participate in collaborative planning processes by attending Regional Public Health Preparedness Meetings at least quarterly.

- b. To build local coalitions at the county level, work in coordination with hospitals by conducting a county level ESF 8 planning group meeting on a quarterly basis. County level ESF 8 planning group should be organized by public health with health and medical stakeholders/supporting organizations and in coordination with county emergency management. In coordination with hospitals, at the county level, conduct ESF 8 planning group meetings to review and provide input to:
 - i. The Kansas Healthcare Capabilities Questionnaire and submit by December 14, 2012.
 - ii. The County Emergency Management Operations Plan ESF 8 Annex by June 30, 2013 utilizing the 2011 Kansas Planning Standards ESF 8 – Public Health and Medical Services and submit the final version to the County Emergency Management.
 - c. Participate in at least one annual exercise at a regional or county level, testing any of the fifteen Public Health Emergency Preparedness (PHEP) Capabilities, by June 30, 2013. An HSEEP After Action Report/Improvement Plan (AAR/IP) for the exercise must be submitted within HSEEP guidelines.
 - i. At least one full-scale exercise must be conducted during the five years of this project period and must be a joint exercise with the hospital. To the extent possible, health departments are encouraged to conduct and plan jointly with additional health and medical stakeholders/supporting organizations, at-risk populations, emergency management, and other partners to meet community exercise requirements.
 - ii. To complete this requirement, a HSEEP After Action Report/Improvement Plan (AAR/IP) for the exercise must be submitted to preparedness@kdheks.gov following the exercise. The individual(s) designing the exercise materials and/or writing the HSEEP AAR/IP must have attended a KDHE-approved HSEEP class. The BP 1 (2012-2013) exercise must be completed by June 30, 2013.
 - d. Participate in a county level Training and Exercise Plan Workshop (TEPW), hosted by county emergency management, to coordinate exercises and develop an exercise plan with county level ESF 8 partners and other response partners. A completion date must be submitted on the progress report. If a TEPW is not scheduled within the county/community, collaborate with the hospital on exercise planning.
14. Establish and maintain accounting records in compliance with the local governmental accounting and financial reporting requirements of the Governmental Accounting Standards Board.
 15. Retain copies of expenditure reports, including invoices for each capital equipment purchase, for a period of at least 3 years. Capital equipment would pertain to any item with an acquisition cost of \$5,000 or greater and with a useful life of over a year.
 16. Maintain an inventory control system for tracking capital equipment and electronic devices as well as any medical and pharmaceutical caches.

17. Document through job descriptions and employee time and attendance records that all staff members paid with PHEP funds are performing activities related to preparedness.
18. Ensure that KDHE Agreement funds will not be used to supplant other Local Agency funds.
19. Submit Affidavits of Expenditure and Work Plan Progress Reports, described hereto in paragraph 13, to KDHE according to the following schedule:
 - a. Period 1 – August 10, 2012 through September 30, 2012 – Report due October 15, 2012.
 - b. Period 2 – October 1, 2012 through December 31, 2012 – Report due January 15, 2013.
 - c. Period 3 – January 1, 2013 through March 31, 2013 – Report due April 15, 2013.
 - d. Period 4 – April 1, 2013 through June 30, 2013 – Report due July 15, 2013.
20. Obtain, as necessary, an audit in accordance with the Federal Single Audit Act of 1996 and OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations, and to submit one complete copy of the single agency audit report to KDHE within 12 months after the end of the Local Agency's fiscal year.
21. Upon request of KDHE or the Kansas Legislative Post Audit, to afford access to any Local Agency documents and other records necessary to certify compliance with this agreement, Kansas legislative appropriations, Kansas statutes and regulations, and Federal grant acts and regulations; and to participate fully in any required evaluation study and/or on-site inspection.

KDHE SHALL:


22. Make periodic payments according to the following schedule, subject to receipt, review, and approval of Affidavits of Expenditures and Work Plan Progress Reports:
 - a. Upon execution of Agreement by the Secretary, 25% of the total Agreement Amount or Eighty-Five Thousand Eight Hundred Twenty-Nine Dollars and Twenty-Five Cents (\$85,829.25).
 - b. Report Period 1 – an amount equal to the total amount of expenditures during Period 1, not to exceed the remaining Agreement balance.
 - c. Report Period 2 – an amount equal to the total amount of expenditures during Period 2, not to exceed the remaining Agreement balance.
 - d. Report Period 3 – an amount equal to the total amount of expenditures during Period 3, not to exceed the remaining Agreement balance.
 - e. Report Period 4 – an amount equal to the total amount of expenditures during Period 4, not to exceed the remaining Agreement balance.
23. Provide technical assistance, as available, to any local agency not meeting program expectations or requesting such assistance.

THE PARTIES, through duly authorized representatives, concur with the terms and conditions of this Agreement and have executed it as of the date show below.

SEDGWICK COUNTY
HEALTH DEPARTMENT

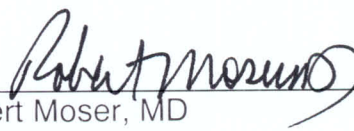
STATE OF KANSAS
DEPARTMENT OF HEALTH AND
ENVIRONMENT

By:



Tim B. Norton, Chairman
Sedgwick County Board of
County Commissioners

By:



Robert Moser, MD
Secretary

August 29, 2012
Date

9/14/12
Date

Approved as to form:



Bill Raymond,
Assistant County Counselor

ATTEST:

for Karen S. Bailey
Kelly B. Arnold, County Clerk

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 10-11), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the 10th day of August, 2012.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."