

Sedgewick

CONTRACT

Between

KANSAS DEPARTMENT OF HEALTH AND ENVIROMENT

And

LOCAL KANSAS WIC CLINIC

SUBJECT: Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Food and Nutrition Service, United States Department of Agriculture, Breastfeeding Peer Counselor Program

DIVISION: Health

This contract is between the Kansas Department of Health and Environment, herein known as the State Agency, and the contracted agency herein known as the Local WIC Clinic. In consideration of the mutual promises contained hereinafter, the parties therefore covenant to:

SECTION I – LOCAL WIC CLINIC RESPONSIBILITIES

The Local WIC Clinic shall:

1. Implement/administer a Breastfeeding Peer Counseling (BFPC) Program as identified by FNS (CFDA 10.557), and implement the peer counseling program consistent with program guidance set forth in the “Using Loving Support to Manage Peer Counseling Programs” and “Loving Support through Peer Counseling” training curricula developed by the United States Department of Agriculture, Food and Nutrition Service;
2. Appoint a BFPC Supervisor who is a clinic employee or contract employee and who has or will receive training in breastfeeding support;
3. Refer WIC participants to either WIC clinic staff or other community agency staff that are trained in the management of breastfeeding problems outside the Breastfeeding Peer Counselor’s expertise;
4. Build upon and expand activities outlined in the local clinic’s approved breastfeeding peer counseling implementation plan and line item budget;
5. Complete an evaluation of this clinic’s BFPC program on a quarterly basis submitting to the State Agency by January 20, April 20, July 20, and October 20;
6. Maintain confidentiality of WIC clients when making referrals and/or releasing information to other health care professionals or programs;
7. Report all BFPC Program expenditures through the use of a separate monthly affidavit submitted (postmarked) to the State Agency no later than the 20th of the month following the reporting month;
 - a. Affidavits postmarked after the 20th may be delayed for processing for a period of 30 days. The State Agency, on a case-by-case basis for unforeseen circumstances, may grant requests for exceptions or extensions. If it is not possible for the Local Clinic to meet the above submission deadline, the Local Clinic must submit to the State Agency written justification for review and approval at least annually;
 - b. Maintain complete, accurate, documented, and current accounting for all funds received and expended, providing an audit trail to source documentation;

8. Attend initial BFPC implementation training and designated annual BFPC training events as directed by the State Agency;
9. Maintain on file and have available for review, audit and evaluation, all documentation of BFPC program contacts. Local Clinic shall maintain all records regarding this contract for a period of four years or until audits by representatives of the United States Department of Agriculture have been completed and any questions arising from the audits have been resolved, whichever is sooner;
10. Meet the audit requirements of OMB Circular A-133 for the fiscal year if Local Clinic receives \$500,000 or more in total federal funds from any source during the Local Clinic's fiscal year. The audit may be a part of the Local Clinic's annual audit. Submit two copies of the audit report pertaining to this grant program to the State Agency. The audit objective is to determine whether there is adequate compliance with regulation and grant agreement. The audit report should include a statement that the examination was made in accordance with generally accepted auditing standards and a statement that operations of the Local Clinic are in conformance with the requirements of the grant contract;
11. Obtain written approval from the State Agency before purchasing any piece of equipment or capital expenditure costing \$500 or more, if said equipment is to be purchased with WIC funds under this contract. KDHE reserves rights to all capital equipment purchased 100% with WIC funds. All capital expenditures reported on the monthly affidavits must be supported with photocopies of prior-authorization documents and vendor invoices before reimbursement can be made.

SECTION II – STATE AGENCY RESPONSIBILITIES

1. Provide technical assistance and training; and monitor the program for compliance;
2. Reimburse the Local Agency on a monthly basis for approved administrative expenses in accordance with the Local Agency submitted affidavit of expenditures and within the funding allocation provided to the Local Agency. Payments are based on actual costs and are contingent upon the availability of Federal funds;
3. In the event this agreement is terminated by either party before the end of the contract period as stated in Section III (1) below, reimbursement for approved administrative expenses will be prorated to the date of termination.

SECTION III – GENERAL CONDITIONS

1. This contract may be terminated by the State by giving at least 60 days written notice to the Local Agency. The Local Agency may terminate the contract by giving at least 60 days written notice to the State;
2. This contract terminates on the date specified below and is not automatically renewed or renewable;
3. The provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

4. Contracted Clinic: Sedgwick County

5. Contract Amount: \$50,936.00 plus reallocated federal funds, if any may become available.

6. Contract Period: October 1, 2011 through September 30, 2012

Contract Signed By:

Signature
Robert Moser, MD

Printed Name
Secretary

Title
Kansas Department of Health and Environment

Organization

Date

Signature

Printed Name

Title

Organization

Date

Approved As To Form



Attachment

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. 1-01), 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 1st day of October, 2011.

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.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of 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 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:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred 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.

Parties to this contract understand that 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 shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit 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 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 shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss of damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor 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 to the U.S. Constitution 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."