

**South Carolina Department of Health and Environmental Control
Ryan White Part B Emerging Communities FY 2013 Grant Year**

Request for Grant Applications (RFGA)

I. BACKGROUND

The United States Congress enacted the Ryan White Treatment Extension Act of 2009 (Ryan White Program) with the goal to improve the quality and availability of care for individuals and families infected and affected by HIV disease by providing emergency assistance to service areas most severely affected by HIV epidemic. This Ryan White Treatment Extension Act authorizes the Federal Health Resources and Services Administration (HRSA) to provide funding for services to persons with HIV disease and their families with no other ability to pay for those needed services.

The purpose of Part B of the Act is to improve the quality, availability and organization of specified health care and support services for individuals with HIV disease and their families. Within Part B, the Emerging Communities funds are additional funds designated for HRSA-defined emerging communities. A HRSA defined emerging community is one with 500-999 cumulative AIDS cases during the most recent 5 years. The State of South Carolina, South Carolina Department of Health and Environmental Control (DHEC) is the state agency responsible for administering the Part B funds in South Carolina.

DHEC, as the administrator of Ryan White Part B funds in South Carolina, will make available FY 2013 Ryan White Part B Emerging Communities funds (April 1, 2013 to March 31, 2014) to provide medical case management and/or support services in the two (2) HRSA-defined eligible jurisdictions/emerging communities in the state: the Columbia Metropolitan Statistical Area (MSA) which includes Calhoun, Fairfield, Kershaw, Lexington, Richland and Saluda counties and the Charleston Metropolitan Statistical Area (MSA) which includes Charleston, Berkley, and Dorchester counties. Grantee applying to DHEC for Emerging Communities funding must be located in the service area and the Grantee selected must make services available to HIV positive residents in all of the counties in the multi-county MSA area.

FUNDING FOR THESE GRANTEE IS DEPENDENT UPON RECEIPT BY DHEC OF FEDERAL FUNDS.

II. SCOPE OF GRANT PROPOSAL

It is the intent of DHEC to accept grant applications to provide Ryan White eligible medical case management and supportive services to people living with HIV/AIDS (PLWHA) in the Columbia and Charleston MSAs. Each grantee shall use Federal Ryan White HIV/AIDS Treatment Extension Act, Part B Emerging Communities funds, administered by DHEC, to provide medical case management and/or supportive services to eligible persons in the same or substantially similar manner as detailed in DHEC's grant proposal to HRSA with the goal of increasing rates of persons living with HIV who are linked to medical care, retained in medical care, and have achieved viral load suppression.

III. SCOPE OF WORK/SPECIFICATIONS

Like all Ryan White funding, Ryan White Part B Emerging Communities funds are to be used to further the three primary goals of the National HIV/AIDS Strategy: 1) reducing the number of people who become infected with HIV, 2) increasing access to care and optimizing health outcomes for people living with HIV, and 3) reducing HIV-related health disparities.

The Emerging Communities have been designated as such due to the numbers of diagnosed AIDS cases over the last 5 consecutive years. DHEC is releasing the Emerging Communities funding to be used for providing medical case management and/or supportive services ensuring access to the health care system for PLWHA in order to facilitate early intervention for those individuals who are newly diagnosed. Increasing rates of persons living with HIV who are linked to medical care, retained in medical care, and have achieved viral load suppression should be goals of all projects funded with Emerging Communities funding.

The Grantee shall use Federal Ryan White HIV/AIDS Treatment Extension Act, Part B Emerging Communities funds administered by DHEC to provide medical case management and/or supportive services to eligible persons* with HIV/AIDS. A list of Ryan White eligible supportive services follows:

- Non-Medical Case Management
- Pediatric Development Assessment and Early Intervention Services
- Emergency Financial Assistance
- Food Bank/Home Delivered Meals
- Health Education/Risk Reduction
- Housing Services
- Legal Services
- Linguistic Services
- Medical Transportation Services
- Outreach Services
- Permanency Planning
- Psychosocial Support Services
- Respite Care
- Referral for Health Care/Supportive Service
- Treatment Adherence Counseling (Outside of Medical Case Management and Clinical Setting)

A definition of each service can be found at:

http://www.scdhec.gov/health/disease/stdhiv/docs/rwpartb_DearColleague%20Letr%20Serv%20Clarificat%20Attachmt%2008-14-09.pdf

*To be eligible for services, persons must be HIV positive and meet criteria set forth under DHEC policy guidelines and have no other payment source for services.

Please note: Part B funds may **not** be used for the following:

- Funeral and burial expenses
- Support for operating clinical trials

- To support criminal defense or for class action suits unrelated to access to services eligible for funding under the Ryan White legislation
- To provide direct maintenance or any other expenses of a privately owned vehicle
- To pay for state and local taxes for personal property
- To pay for pet foods
- To pay for social/recreational activities if not provided on grantee premises.

Each grantee may directly provide services or enter into contractual agreements with other acceptable entities for the provision of services. Such acceptable entities would include any entity that provides services for PLWHA in the service area.

Organizations which are eligible to apply for funds must have a minimum of at least a three year documented history (within the past three years) of providing services to people living with HIV/AIDS and have the documented infrastructure capacity to operate on a cost reimbursement basis.

Approximately \$335,153 will be available in FY 2013 Emerging Communities funding for the Columbia MSA. Approximately \$100,000 will be available in FY 2013 Emerging Communities funding for the Charleston MSA. Applications from all eligible Grantee will be considered and multiple awards may be made. Funds will be awarded for up to a two year project period. Yearly continuation awards within an approved project period will be made based on satisfactory progress as evidenced by successfully implementing required recipient activities, submitting required reports in a timely manner and being in compliance with all other contractual obligations. Continuation awards are subject to funding availability from HRSA to DHEC.

A. Required Activities

The Ryan White Grantee awarded under this grant application shall:

1. Conduct an annual individual area needs assessment within the geographic area served and participate in periodic statewide needs assessments to be conducted on an ongoing basis. The assessment is to be done in collaboration with public health and community-based providers of HIV-related services and with the participation of PLWHA. The grantee needs to pay particular attention to individuals who know their HIV status and are not receiving HIV-related services as well as paying attention to any gaps in access and services among affected populations.
2. Develop an annual implementation plan to meet identified service needs with the participation of PLWHA. In establishing a local plan, the grantee must demonstrate that they have consulted with the Regional DHEC office and/or other entities providing HIV-related health care in the area, community-based AIDS service organizations, and organizations with a mission to serve children, youth, and women and families with HIV disease. The grantee must show how their plan is in agreement with the most recent South Carolina Statewide Coordinated Statement of Need and Comprehensive Plan. See **Attachment 1** for the current plan.

(The grantee must develop an Implementation Plan for the local area (**See Attachment 2**). And, submit the proposed Implementation Plan with the application.)

3. Strong partnerships between HIV prevention service providers and HIV care service providers are necessary in meeting the goals of the National HIV/AIDS Strategy and the Early Identification of Individuals with HIV/AIDS (EIIHA) Ryan White Part B initiative. EIIHA is the identifying, counseling, testing, informing and referring of diagnosed individuals to appropriate services. The goal of EIIHA is to ensure that individuals who are unaware of their HIV status are identified, informed of their status, referred to supportive services, and linked to medical care.

Grantee must promote coordination and integration of community resources and services and address the needs of all affected populations. Maintain appropriate relationships with entities in the area being served that provide key points of access to the health care system for PLWHA in order to facilitate early intervention for those individuals who are newly diagnosed and for those who know their status but are not currently in care. Grantee must show evidence of concrete collaborative relationships with providers of medical services, mental health services, and substance abuse services provided to people living with HIV,

4. Develop and implement a local Quality Management Plan that is aligned with the overall statewide Quality Management Plan (**Attachment 3**). Full participation in all Quality Management activities is required for all Grantee.

B. General Grant Requirements

1. The grantee will consult with the DHEC STD/HIV Program in developing programs/services and policies in order to assure compliance with Ryan White legislation.
2. Peer Review
DHEC is required to perform a periodic, independent peer review process on funded Grantee. The grantee will assign one representative to serve on the Peer Review Committee which is involved in ongoing assessment of the quality of Part B programs and services and to help determine: a) barriers to accessing care, and b) gaps in service provision. The Peer Review Committee meetings also serve as a mechanism for DHEC to disseminate specific grantee information to the Grantee.
3. Medical Case Management Workgroup
If the applicant is awarded to provide Medical Case Management services, the grantee will assign one representative to serve on the Medical Case Management Workgroup.
4. Periodic Statewide Meetings
The grantee is also requested to send at least one representative to each statewide meeting convened by DHEC, not to exceed four (4) per year.
5. Limits on Charges For Services
The funded grantee is not required to charge for their services. A grantee that charges individuals for services must do so on a sliding fee schedule that is made available to the public. The grantee must submit any plans to charge for services to DHEC for approval and must comply with the fee schedule approved by DHEC.

6. The grantee will permit and cooperate with any State or Federal investigations undertaken regarding programs conducted under Part B.
7. The grantee will participate in the Ryan White Statewide Quality Management program to assess the extent to which HIV health services provided to patients are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infections. Guidelines are available at <http://www.aidsinfo.nih.gov/>.
8. The grantee must use *Provide Enterprise 6.2 or greater* for tracking and reporting program services.
9. The Grantee must ensure that clients served with Ryan White Part B services meet the following South Carolina eligibility criteria: have a confirmed diagnosis of HIV or AIDS, live in South Carolina, and limited income (at or below 550% of Federal Poverty level).
10. The Ryan White HIV/AIDS Program is the payer of last resort, and Grantee must make every effort to ensure that alternate sources of payments are pursued and that program income is used consistent with grant requirements. Grantee are required to use effective strategies to coordinate with third party payers that are ultimately responsible for covering the cost of services provided to eligible or covered persons. Third party sources include Medicaid, State Children's Health Insurance Programs (SCHIP), Medicare, including Medicare Part D, basic health plans, and private insurance. Subcontractors providing Medicaid eligible services must be Medicaid certified.
11. If a grantee enters into contractual agreements to provide the services, the grantee is responsible for providing contractual oversight ensuring the subgrantee is in compliance with all HRSA and DHEC contractual and reporting requirements.

C. Funding - Related Grant Requirements

1. Annual submission of a budget, budget narrative, and implementation plan is required (see Attachment 6 and Attachment 2 respectively).
2. Administrative charges to the grant are limited to 10% of the award. Facilities charges, including rent, are considered administrative costs.
3. No funds may be used to make cash payments to intended recipients of services.

D. Grant Reporting Requirements

The grantee will provide programmatic, demographic, and financial reports, as required by the STD/HIV Division. These requirements are:

1. Quarterly/Bi-Annual Reports:
 - a. Quarterly - A financial statement which identifies the amount of funds received and the amount expended for each category of services provided.

- b. Bi-Annual - A description of the progress in meeting local HIV service goals and objectives, including efforts to address the continuum of health and support services, and a summary of issues and/or problems, which may have impeded implementation and the strategies, used to address them. Goals and objectives will be submitted annually and progress reported bi-annually.
2. Ryan White Data Report (RDR) and Ryan White Services Report (RSR):
- a. Each grantee that receives Part B funding will submit reports on all clients who received at least one service during the reporting period that is eligible for Ryan White Part B funding. These reports must include unduplicated counts of clients. The reporting period will be January 1-December 31. If the grantee, subcontracts any of the work, the grantee is responsible for
 - b. Each grantee receiving Part B funds will provide other information required for the RDR and RSR, including, a contact person for each provider, the name, address, phone and fax number for each organization, the minority composition of the board and/or staff of each organization and other information.

3. Additional Documentation and Reporting Requirements:

In addition to reporting requirements above, in order to comply with the Ryan White legislation, the funded grantee must document and report to DHEC information about the:

- a. Type, amount, and costs of programs and services funded through the grantee;
- b. Number and demographic characteristics of individuals and families served by the grantee; and
- c. Data elements collected for RSR and Quality Management Program, which will include but are not limited to: CD4 counts, viral load test results, TB skin testing, immunization information and pap tests.
- d. Program income must be reported to DHEC on all monthly invoices for the previous month. Grantee must have financial mechanisms in place to track Program Income and expenditures of Program Income. Program income must be used to further the Ryan White Part B program.

4. ADAP Program:

DHEC is required under the Ryan White Part B grant to report unduplicated client services to the HRSA. In accordance with this grant requirement, and for purposes of the ADAP Program's performance of treatment, payment, and health care operations pursuant to the Health Insurance Portability Act of 1995 (HIPAA), the grantee will be required to release to the ADAP Program the following information, upon request:

- a. Electronic information entered into the Provide Enterprise System. The information requested will include the Patient's Client Profile, Drug (if entered) and Vital Sign Information (if entered) and will not include detailed information such as visit history and progress logs.
 - b. Timely release of this information to the ADAP Program is essential for purposes of grant compliance.
5. WICY Report:

The grantee will also be required to comply with any additional reporting requirements that may be required by DHEC such as reporting on the numbers of Women, Infants, Children and Youth (WICY) served.

E. Grant Accountability Measures

The grantee awarded under this grant application will be expected to:

1. Use not less than the percentage of funds in a fiscal year constituted by the ratio of the population of the geographic service area of infants, children, youth and women with HIV infection to the general population in the geographic area of individuals with HIV infection. For example, in the service area if the proportion of infants, children, youth and women with HIV infection to the total number of persons with HIV infection is twenty-four percent (24%), then the grantee must expend not less than 24% of its annual funding to providing services to infants, children, youth and women. DHEC will provide the funded grantee with the required ratio based on reported HIV/AIDS cases and prevalence data.

Measure: Actual proportion of infants, children, youth and women with HIV infection served per year versus the number of infants, children, youth and women with HIV infection in the geographic area.

2. In a fiscal year, use funds within ten percentage points of the ratio of the population of racial minority groups with HIV infection of the geographic service area to the general population in the geographic area of individuals with HIV infection (+/- 10%).

For example, in the service area if the proportion of African-Americans with HIV infection to the total number of persons with HIV infection is **seventy-four** percent (74%), then the grantee must expend **at least sixty four** percent (64%) of its annual funding to providing services to African Americans. DHEC will provide each funded grantee with the required ratio based on reported HIV/AIDS cases and prevalence data.

3. Collect data elements requested by DHEC for Quality Management.

F. Grant Budget

The initial grant fiscal year is from April 2013 through March 2014. DHEC will make available fiscal year funds to fund the grantee in the designated counties intended to

provide comprehensive HIV care services to people living with HIV/AIDS who have no other ability to pay for care services. The total annual dollar amount available will be dependent on federal funds made available. The grant will be awarded for a period of up to two (2) years.

Determination of award will be based on the merits of the proposed projects as put forth in the grant applications. Up to 10% of the total grant may be used for administration. Any continuation of funding is contingent upon federal funds availability. Because federal funding levels may change from year to year, grant award amounts are subject to change each year.

If awarded, the grantee will submit a projected budget to DHEC at the beginning of each grant year. If throughout the course of a grant year a budget revision is necessary and exceeds 10% of the amount allocated for that budget item, the grantee must make a written request to DHEC for approval of the revision. The budget revision will not be authorized until the grantee receives written approval from DHEC.

Grantee must continually monitor the third party reimbursement process for their agency. Grantee must ensure that all clients are screened annually, at a minimum, for eligibility for Medicare, Medicaid, Veteran's health care benefits, private health insurance or other funds to ensure that Ryan White funds are the payer of last resort.

IV. INFORMATION FOR APPLICANTS TO SUBMIT/SCORING CRITERIA

To be considered for award, all proposals must include, at a minimum, responses to the information requested in this section. Scoring points associated with each section are noted in parentheses.

Entities applying to be a grantee should restate each of the items listed below and provide their response immediately thereafter.

All information should be presented in the listed order:

Table of Contents – Provide a *one-page* table of contents document that includes all the items listed below.

1. Program Description
2. Organizational History, Experience and Qualifications
3. Community Collaborations
4. Needs Assessment
5. Reporting and Evaluation
6. Budget Narrative *

*A program budget narrative and budget form must be submitted but will not be part of the scoring criteria for receipt of funding.

1. Program Description (25 Points Total)

- A. For each agency/organization, identify the services to be provided, how many people with HIV will be served by each service, and the staff who will provide the

services. Submit Implementation Plan on the template provided (See **Attachment 2** for template and instructions).

- B. Describe how the planned services will increase rates of persons living with HIV related to linkage to medical care, retention in medical care, and viral load suppression among persons in HIV medical care.
 - C. Describe how the grantee will coordinate service delivery to ensure proper and timely access to services and to ensure no duplications of delivery occur within the service area.
 - D. Describe how the grantee will maintain appropriate relationships with entities in the area being served that provide key points of access to the health care system for people living with HIV including community health centers, HIV testing sites, mental health centers and homeless service centers.
 - E. Describe how the grantee will maintain appropriate relationships with entities in the area being served that provide medical services, mental health services, and substance abuse services provided to people living with HIV, including services that will be offered through community partnerships.
 - F. As applicable, describe the fee for service schedule to be utilized. (NOTE: The funded grantee must have prior approval from DHEC to implement fee for service schedule.)
2. Organizational History, Experience and Qualifications (25 points total)
- A. The applicant must describe the record of service to special populations and subpopulations with HIV disease within the communities/counties to be served. This record of service description must include the involvement of persons living with HIV in the planning and/or delivery of services.
 - B. The applicant must demonstrate the ability to begin provision of services within 30 days of grant execution.
 - C. If the applicant is planning to provide medical case management services, the applicant must demonstrate the ability of providers to meet South Carolina medical case management standards adopted by all of the Ryan White Part B providers (**Attachment 4**). Additionally, the applicant must demonstrate the ability to provide medical case management services as described in the Ryan White Program Services Definitions i.e. (1) initial assessment of the service needs, (2) development of a comprehensive, individualized service plan, (3) coordination of the services required to implement the plan as well as (4) client monitoring to assess the efficacy of the plan, and (5) periodic re-evaluation and adaptation of the plan as necessary over the life of the client.
 - D. Grantee must adhere to the Medical Case Manager and Medical Case Manager Supervisor qualifications (**Attachment 5**) when hiring new staff.

- E. The grantee must use the database software *Provide Enterprise 6.2 or greater* and *Lotus Notes 5.0 or greater* for interaction with ADAP, and service data collection and reporting.
 - F. The grantee must describe how the composition of the board of directors and the composition of the key agency staff reflect the target population.
 - G. The grantee must describe the experience the organization has in record keeping of when and how services are provided, evaluating services, and marketing services to the target population. Provide a description of the organization's ability to complete quarterly, fiscal, and programmatic progress reports.
 - H. Describe how the grantee will track program income revenue and expenditures.
 - I. Include resumes of key personnel assigned to manage the program and what they do for the organization.
3. Community Collaborations (20 points total)
- A. List the agencies and community-based organizations with which your agency will collaborate. For each organization, define its proposed scope of services, role in the region/area, and record of service to persons with HIV disease and families.
 - B. Describe how your organization will collaborate with entities providing ambulatory and outpatient HIV-related health care services and support services within the area to be served.
4. Needs Assessment (20 points total)
- A. Identify the populations and subpopulations of individuals with HIV disease and their families in the area to be served. Describe the population of individuals who know their HIV status and are not receiving HIV-related services, or your plan to collect this information. The applicant agency shall consider demographic characteristics of reported AIDS cases and HIV infection, as well as other sources of information. South Carolina HIV/AIDS surveillance data is available on the web at <http://www.scdhec.net/hs/diseasecont/stdwk/html/surveillance.htm>.
 - B. Describe the existing HIV services and service needs or gaps within the areas to be served, demonstrating clearly how an assessment of service needs was conducted, and how involvement of persons living with HIV was obtained. Describe how the service needs or gaps will be filled with Emerging Communities funding.
 - C. If available, submit the results of the most recent Needs Assessment completed by the applicant. If not available, please submit your plan for conducting a Needs Assessment annually.
- NOTE: The Ryan White legislation requires that this assessment of needs include participation by individuals with HIV disease.

5. Reporting and Evaluation (10 points total)

- A. Describe the system your agency will use to collect demographic, service provided data, and qualitative data; and to evaluate its success in responding to the identified needs and providing cost-effective services.

6. Application Submission

Applicant shall submit a signed Cover Page and Application addressing all of the above noted points. Application must include one original and three copies of:

- a. Signed Cover Letter
- b. Table of Contents
- c. Program Description
- d. Organizational History, Experience and Qualifications
- e. Community Collaborations
- f. Needs Assessment
- g. Reporting and Evaluation
- h. Budget Narrative and Budget Form
- i. Annual Implementation Plan
- j. Needs Assessment (if available)

Attachment 1

South Carolina Statewide Coordinated Statement of Need and Comprehensive Plan

<http://www.scdhec.gov/health/disease/stdhiv/docs/2012%20SouthCarolinaSCSNandCompPlan.pdf>

Attachment 2

Annual Implementation Plan Template

<http://www.scdhec.gov/health/disease/stdhiv/rwpartb.htm>
under the Emerging Communities section

Attachment 3

Quality Management Plan

http://www.scdhec.gov/health/disease/stdhiv/docs/rwqm_Ryan%20White%20QM%20Plan.pdf

Attachment 4

South Carolina Medical Case Management Standards

http://www.scdhec.gov/health/disease/stdhiv/docs/rwpartb_RWCMStandardsRevisedJune2010.pdf

Attachment 5

South Carolina Ryan White Part B Medical Case Management Qualifications

HIV Medical Case Manager

An HIV Medical Case Manager must meet one of the following qualifications:

1. Hold a master's degree from an accredited college or university in a human services field including, but not limited to, Social Work, Sociology, Health Education, Child and Family Development, Counseling, Psychology, or Nursing; or
2. Hold a bachelor's degree from an accredited school of social work; or
3. Hold a four-year degree from an accredited college or university in a human services field or related curriculum including at least 15 semester hours in courses related to social work or counseling and six months of social work or counseling experience; or
4. Hold a four-year degree from an accredited college or university and one year experience in counseling or in a related human services field which provides experience in techniques of counseling, casework, health education, group work or community organization; or
5. Be a licensed Registered Nurse, Nurse Practitioner, Physician Assistant, Social Worker, or Certified Substance Abuse Counselor and have two years experience working in human services.

HIV Medical Case Management Supervisor

An HIV Medical Case Management Supervisor must meet one of the following qualifications:

1. Hold a master's degree from an accredited college or university in a human services field including, but not limited to, Social Work, Sociology, Child Development, Maternal and Child Health, Counseling, Psychology or Nursing, and one year experience in direct service provision in a human services setting; or
2. Hold a bachelor's degree from an accredited school of social work and two years of experience in case management; or
3. Hold a four-year degree from an accredited college or university in a human services field or related curriculum including at least 15 semester hours in courses related to social work or counseling and six months of social work or counseling experience and two years of experience in direct service provision in a human services setting; or
4. Hold a four-year degree from an accredited college or university and one year experience in counseling or in a related human services field which provides experience in techniques of counseling, casework, group work or community organization and two years experience in direct service provision in a human services setting; or
5. Graduation from an accredited school of professional nursing and completion of three years of professional nursing experience, including two years in Public Health. Be

licensed to practice as a Registered Nurse and have a minimum of two years experience in direct service provision in a human services setting; or

6. Graduation from an accredited school of professional nursing and completion of three years of professional nursing experience, including two years experience supervising nurses responsible for developing and maintaining care plans and coordinating care and services for patients receiving care in their homes. Be licensed to practice as a Registered Nurse and have a minimum of two years experience in direct service provision in a human services setting.

Attachment 6

South Carolina Ryan White Part B Budget Form

<http://www.scdhec.gov/health/disease/stdhiv/rwpartb.htm>
under the Emerging Communities section

Attachment 7

D R A F T

GRANT AGREEMENT

BETWEEN

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

AND

NAME OF CONTRACTOR

This Grant Agreement by and between the South Carolina Department of Health and Environmental Control (hereinafter referred to as DHEC) and Name of Grantee (hereinafter referred to as the Grantee), is for the purpose of disbursing funds in accordance with the Federal Ryan White HIV/AIDS Treatment Extension Act, Part B program and the DHEC Public Health, STD/HIV Division, Ryan White Part B Program as outlined in DHEC's Ryan White Part B FY2013 Grant Year Request for Grant Applications (Attachment #1)

The parties to this Grant Agreement agree as follows:

A. SCOPE OF SERVICES

Grantee will comply with all specific requirements related to Ryan White Part B grant funding as outlined in the Ryan White Part B FY2013 Grant Year Request for Grant Applications for Emerging Communities funding for Columbia MSA or Charleston MSA.

B. TIME OF PERFORMANCE

This Agreement shall be effective April 1, 2013, or when all parties have signed, whichever is later, and shall terminate March 31, 2015; provided, however, upon the availability of funds as awarded by the grantor and as disbursed in an amendment to the contract on an annual basis only work done in accordance with the effective dates of this Agreement will be compensated. If either party elects not to continue this Agreement, this Agreement may be terminated as outlined in the Termination clause of this Agreement.

C. COMPENSATION

1. Grant Award:

DHEC agrees to reimburse the Grantee, for all allowable costs incurred as outlined in Attachment I, on a monthly (or twice-monthly if needed) basis provided the total amount paid under this Agreement does not exceed the awarded per-year maximum dollar amount, including travel costs incurred. No carry forward will be allowed for these funds. All expenditures must occur between the start and end date of the signed Grant Agreement.

2. Reimbursement Limitation:

DHEC's financial obligations to the Grantee are limited by the amount of Federal funding awarded in Section C.1., and may change from year to year in accordance with Section II.A. of the DHEC Ryan White Part B FY2013 Grant Year Request for Grant Applications.

3. Sources of Funds:

Compensation for performance of services will be reimbursed with funds made available from the Ryan White Care Act, Title II, CFDA Number 93.917, Grant Number X07HA00038, US Department of Health and Human Services, Health Resources and Services Administration (HRSA).

DHEC's Point of Contact for financial information regarding payments made under this Agreement:

Ronnie Belleggia, Assistant Bureau Director
Bureau of Financial Management
2600 Bull Street
Columbia, SC 29201-1708

Contact the DHEC STD/HIV Program directly for questions regarding invoices, required reporting, and/or as an initial point of contact for any basic Grant Agreement questions. Contact information is as follows:

Leigh Oden, Program Manager
SC DHEC STD/HIV Division
Box 101106, Mills/Jarrett Complex
Columbia, SC 29211
Phone: (803) 898-0650

D. METHOD OF PAYMENT

The Grantee shall submit a monthly (or twice-monthly if necessary) request for payment for services rendered as outlined in the Scope of Services, Section A, as follows:

1. The invoice must include the name and address of the Grantee, the Grant Agreement Number, a brief description of the Scope of Services performed, the period covered, an itemized listing of expenses incurred with categorical break-out sub-totals as required by the DHEC program, the total amount of the reimbursement, and supporting documentation for expenditures as required by DHEC.
2. Reimbursement shall be for actual allowable costs incurred. Only expenditures incurred during the Grant Agreement period can be submitted for reimbursement. The invoice should be received by DHEC within fifteen (15) days after the end of each time period. Final invoice must be received no later than April 30th, due to time sensitivity of governmental funding. Mail requests for payment to SCDHEC Public Health, Box 101106, Mills/Jarrett Building, Columbia, S.C., 29211.

E. REPORTING REQUIREMENTS

Reports as required by the DHEC STD/HIV program must be submitted as instructed by STD/HIV Program Manager.

F. TERMS AND CONDITIONS

1. Adherence to Federal Regulations: The provisions of this Grant Agreement are contingent upon any possible revision of State or Federal statutes, regulations, and requirements governing:

a. Ryan White Care Act Title II CFDA Number 93.917, Grant Number X07HA00038, US Department of Health and Human Services, Health Resources and Services Administration (HRSA). Any change to these requirements that conflicts with any part of this Grant Agreement will automatically replace the conflicting provision upon its effective date.

Any change to these requirements that conflicts with any part of this Grant Agreement will automatically replace the conflicting provision upon its effective date.

2. Amendments: Any change to this Grant Agreement is considered an amendment to the Grant Agreement and must be mutually agreed to and executed in the same manner as the original Grant Agreement.

3. Audit – Single or Program Specific:

a. All Grantees (Grantee), except for profit entities, that expend \$500,000 or more in Federal awards from all sources during their fiscal year shall have a single or program, specific audit conducted for that fiscal year in accordance with the provisions of Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, dated June 27, 2003.

b. The Audit shall be completed and submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period. The Grantee agrees to send one copy of any audit conducted under the provisions of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, dated June 27, 2003, to **SC DHEC, Office of Internal Audits, 2600 Bull Street, Columbia, SC 29201.**

c. Entities which are audited as part of the State of South Carolina Statewide Single Audit are not required to furnish a copy of that audit report to SC DHEC's Office of Internal Audits.

d. Non-Federal entities that expend less than \$500,000 a year in total Federal awards, from all sources, are exempt from the Federal audit requirements of OMB Circular A-133 for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

- e. A Grantee is prohibited from charging the cost of an audit to Federal Awards if the Grantee expended less than \$500,000 from all sources of Federal funding in the Grantee's fiscal year. If the Grantee expends less than \$500,000 in Federal funding from all sources in the Grantee's fiscal year, but obtains an audit paid for by non-Federal funding, then DHEC requests a copy of that audit be sent to **SC DHEC STD/HIV Division, Ryan White Program Manager , Box 101106, Mills/Jarrett Complex, Columbia, SC 29211.**
- f. As a grantee, if you utilize an indirect cost rate, you must provide a copy of the approved indirect cost rate letter from your Federal cognizant agency, OR an indirect cost rate reviewed and approved by an external auditor in accordance with GAAP. Otherwise, only direct charges will be allowed under the terms and conditions of this grant.
4. **Audit – Limited Scope:** Grantees who are not required to obtain a single or program specific audit may be required to obtain limited scope audits if the quarterly compliance reports, site visits and other information obtained by the Department raise reasonable concern regarding compliance with grant conditions. Such engagements may not be paid for by SC DHEC pass-through funds.
5. **Business Associate Agreement:** The Grantee must sign DHEC Form 0854, Business Associate Agreement between South Carolina Department of Health and Environmental Control and Grantee (see Attachment #2).
6. Grantee must ensure that Protected Health Information about clients will not be disclosed without proper authorization by the client or his/her parent or legal guardian, or pursuant to a specific exception under the Health Insurance Portability and Accountability Act (45 CFR Parts 160 and 164).
7. **Certification of State Employee Status:** By signing this Grant Agreement, the Grantee certifies that he/she is not now nor has been within the last two years an employee of a South Carolina State Agency. (Note: this term does not apply to SC state agencies.)
8. **Completion of Services:** Any funds paid by DHEC and not used for completion of services shall be returned to DHEC.
9. **Confidentiality:**
- a. The Grantee agrees to abide by DHEC's Confidentiality Policy, which states that all information about personal facts and circumstances of DHEC employees, clients, or members of the public is confidential and will not be disclosed without written authorization of the individual to which it pertains, unless disclosure is required by law, or otherwise required in accordance with this agreement and released to the Grantee after DHEC Office of General Counsel review. If confidential information is disclosed pursuant to a properly completed authorization, documentation of the disclosure and a copy of the authorization must be maintained and made available for DHEC inspection and audit. In addition, confidential agency information and action shall not be disclosed unless DHEC authorizes the disclosure in writing, or the disclosure is required by law.

- b. The types of information that generally must be kept confidential include, but are not limited to, personal information about job applicants, DHEC employees, DHEC clients or members of the public, such as names, social security numbers, addresses, telephone numbers, medical or disability information, financial status and information, account or identification numbers issued by government agencies or private financial institutions, other identifying information, or confidential business information.
- c. The Family Privacy Protection Act may place additional restrictions on the collection and disclosure of personal information. Information that is otherwise available to the public under the Freedom of Information Act may be released in accordance with State law.
- d. The Grantee and the Grantee's employees/agents may be required to sign DHEC's Confidentiality Agreement (DHEC form #0321). Alternatively, if the Grantee desires to rely upon an existing Confidentiality Agreement signed by its employees/agents, a copy of the Confidentiality Agreement must first be provided to the DHEC Grants Program for evaluation, and the Grantee must provide written verification that all employees/agents who may have access to DHEC confidential information in the course of performing this agreement have executed the Confidentiality Agreement. The Grantee must ensure that confidential information released to the Grantee's employees/agents is limited to the information minimally necessary in order to meet its obligations under this agreement.
- e. Unauthorized disclosure of confidential information may result in termination of this agreement and may be grounds for fines, penalties, imprisonment, injunctive action, civil suit, or debarment from doing business with the State. Unauthorized disclosure of confidential information not consisting of protected health information must be immediately reported to the DHEC Contract Officer, 2600 Bull Street, Columbia, SC 29201.
10. Copyright: DHEC shall have sole ownership and copyright for any tangible product developed under this agreement. DHEC shall have unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any report, data or other materials prepared under this Agreement. This should not be construed to prevent the Grantee from publishing and referencing the product.
11. Debarment: Grantee certifies that they have not been debarred or suspended under OMB Circular A-133 Compliance Supplement or otherwise from doing business with any governmental entity.
12. Dispute: The Agreement, any dispute, claim, or controversy relating to the agreement and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. All disputes, claims, or controversies relating to the Agreement shall be resolved in accordance with the South Carolina Procurement Code, Section 11-35-10 et seq., or in the absence of jurisdiction, only in the Court of Common Pleas for, or a Federal court located in Richland County, South Carolina.

13. Discrimination: No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in relation to any activities carried out under this Agreement on the grounds of race, age, health status, handicap, color, sex, religion or national origin. This includes the provision of language assistance services to individuals of limited English proficiency eligible for services provided by SC DHEC.
14. By signing this grant agreement, the Grantee certifies that the Grantee will comply with all applicable provisions of the Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.
15. Equipment: Title to any equipment, goods, software, or database whose acquisition cost is borne wholly or in part by this Grant Agreement shall vest in DHEC upon acquisition, and will be transferred to the Grantee upon the end of the successful completion of the Grant Agreement for use in continued support of the effort of the work as outlined in the Grant Agreement.
16. HIPAA Training: Prior to participating in any DHEC clinical activity or rendering any service to DHEC under this Agreement, the Grantee and employee/agents of the Grantee will be educated and trained regarding the Health Insurance Portability and Accountability Act of 1996 and related Regulations pertaining to the privacy and security of protected health information (the HIPAA Privacy Rule). The Grantee will provide documentation of successful completion of this training to the Grants Officer prior to initiating performance of this Agreement. If this training has not been conducted, or documentation of training has not been provided, the Grantee and its employees/agents will be required to view DHEC's HIPAA training video(s) and receive necessary information on the DHEC forms referenced in the training prior to initiating performance of this Agreement.
17. Indemnity: Neither party shall be liable for any claims, demands, expenses, liabilities and losses (including reasonable attorney's fees) which may arise out of any acts or failures to act by the other party, its employee or agents, in connection with the performance of services pursuant to this Agreement.
18. Liability: The Grantee shall be responsible for any liability for loss of damage to person or property arising from acts of the Grantee or his employees in performance of this Agreement. Each of the parties agrees to maintain professional, malpractice and general liability insurance, and may be required to provide the other with satisfactory evidence of such coverage. Neither party will provide individual coverage for the other party's employees, with each party being responsible for coverage of its respective employees. The Grantee agrees and understands that neither the Grantee, its employees nor agents is covered by any professional or tort liability insurance maintained by SC DHEC.
19. License/Accreditation: The parties agree that during the term of this Agreement, each party shall maintain its respective Federal and state licenses, certifications, and accreditations required for the provision of services therein. The Grantee will immediately notify DHEC if a board, association, or other licensing authority takes any action to revoke or suspend the license, certification, or accreditation of the Grantee.

20. Lobbying Disclosure Act: By accepting this award, the Grantee certifies that it:
- a. has neither used nor will use any appropriated funds for payments to lobbyists;
 - b. will disclose the name, address, payment details and purpose of any agreement with a lobbyist whom Grantee or its subtier/contractor(s) or subgrantee(s) will pay with profits or nonappropriated funds on or after 12/22/89; and
 - c. will file quarterly updates about the use of lobbyists if material changes occur in their use.
21. Minority Business: The Grantee must agree to make positive efforts to use small and minority owned businesses and individuals. DHEC Form 128 is for use in providing this information.
22. Preventing and Reporting Fraud, Waste and Abuse:
- a. SCDHEC has procedures and policies concerning the prevention and reporting of fraud, waste and abuse (FWA) in agency-funded programs, including but not limited to those funded by Federal grants such as Medicaid. No agency employee, agent, or Grantee shall direct, participate in, approve, or tolerate any violation of Federal or state laws regarding FWA in government programs.
 - b. Federal law prohibits any person or company from knowingly submitting false or fraudulent claims or statements to a federally funded program, including false claims for payment or conspiracy to get such a claim approved or paid. The False Claims Act includes "whistleblower" remedies for employees who are retaliated against in their employment for reporting violations of the Act. Under State law, persons may be criminally prosecuted for false claims made for health care benefits, for Medicaid fraud, for insurance fraud, or for using a computer in a fraud scheme or to obtain money or services by false representations. Additional information regarding the Federal and state laws prohibiting false claims and SC DHEC's policies and procedures regarding false claims may be obtained from the agency's Contract Officer or Bureau of Business Management.
 - c. Any employee, agent, or grantee of SCDHEC who submits a false claim in violation of Federal or state laws will be reported to appropriate authorities.
 - d. If the Grantee, Grantee's agents or employees have reason to suspect FWA in agency programs, this information should be reported in confidence to the agency. A report may be made by writing to the Office of Internal Audits, SCDHEC, 2600 Bull Street, Columbia, South Carolina 29201; or by calling the Agency Fraud, Waste and Abuse Hotline at 803-896-0650 or toll-free at 1-866-206-5202. The Grantee is required to inform Grantee's employees of the existence of DHEC's policy prohibiting FWA and the procedures for reporting FWA to the agency.

23. Records Retention: Records with respect to all matters covered by this Agreement shall be retained by the Grantee for six (6) years after the end of the Grant Agreement period, and shall be available for audit and inspection at any time such audit is deemed necessary by DHEC. If an audit has begun but is not completed at the end of the 6-year period, or, if audit findings have not been resolved at the end of the 6-year period, the records shall be retained until resolution of the audit findings.
24. Subcontracting: None of the work or services covered by this Grant Agreement shall be subcontracted without the prior written approval of DHEC. DHEC must then also examine any subsequent contracts or grant agreements. Sub-Grantees or sub-contractors are also subject to all of the terms and conditions described in this Grant Agreement.
25. Termination: Subject to the provisions contained below:
- a. This Grant Agreement may be terminated by DHEC providing written notice of that intent to the other party at least thirty (30) days in advance. This Grant Agreement may be terminated by the Grantee by providing written notice of that intent to DHEC at least sixty (60) days in advance; provided, however, DHEC may approve or agree to or direct a shorter period of time, in its sole discretion, but the Grantee must receive at least 30 days written notice.
 - b. Funds for this Grant Agreement are payable from Federal appropriations. In the event sufficient appropriations are not made to pay the charges under this Grant Agreement, it shall terminate without any further obligation by DHEC.
 - c. DHEC may terminate this Grant Agreement for cause, default or negligence on the part of the Grantee at any time without thirty days advance written notice.
26. Travel expenses:
- a. The Grantee's travel expenses, including room and board, incurred in connection with the services described in the Scope of Services will be limited to reimbursement at the standard State rate in effect during the period of this Grant Agreement and will be included within the maximum amount of the contract.
 - b. (Reference: <http://www.cg.sc.gov/stateagencyinfo/Documents/DisbursementRegulations031912.pdf>).
 - c. The State of South Carolina's standard rate for hotels will be at the established federal Government Services Administration rate or below for the area of travel. These rates can be found at <http://www.gsa.gov>.
 - d. The Contractor must submit lodging receipts showing a zero balance when seeking reimbursement. Prior to submitting any invoices for contractual reimbursements of out-of-state travel, Contractor must submit a written request for approval of out-of-state travel and receive written approval of out-of-state travel. The request for approval must include a breakdown of all proposed travel expenses including, but not limited to, airfare, registration, and lodging and an

explanation of how the travel is related to the activities described in the Scope of Services.

27. Indemnification: “Claims” in this provision means a claim, demand, suit, cause of action, loss or liability. Notwithstanding any limitation in this Contract, and to the fullest extent permitted by law, Contractor shall defend and hold harmless DHEC, its officers, directors, agents, and employees (hereafter DHEC) from any Claims made by a third party for bodily injury, sickness, disease or death, or for injury to or destruction of tangible property arising out of or in connection with any act or omission of Contractor, in whole or in part, in the performance of professional services pursuant to this Contract. Further, Contractor shall defend and hold harmless DHEC from any claims against DHEC by a third party as a result of the Contractor’s breach of this Contract, including any breach of confidentiality by a person to whom the Contractor disclosed confidential information in violation of this Contract. The Contractor shall not be liable for any Claims by a third party proven to have arisen or resulted solely from the negligence of DHEC. This indemnification shall include reasonable expenses including attorney’s fees incurred by defending such Claims. DHEC shall provide timely written notice to the Contractor of the assertion of the Claims alleged to be covered under this clause. Contractor’s obligations hereunder are in no way limited by any protection afforded under workers’ compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancellation, or expiration of the Contract.

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The parties to this Grant Agreement hereby agree to any and all provisions of the Agreement by affixing their respective signatures below and avowing that each has the authority to enter into this binding agreement for the entity referenced above his or her signature.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL	NAME OF CONTRACTOR
BY:	BY:
NAME: Lisa F. Waddell, MD, MPH TITLE: Director Preventive Health Services	NAME: TITLE:
DATE:	DATE:
WITNESS:	WITNESS:

DRAFT

MAILING ADDRESS:

FEDERAL IDENTIFICATION NO.:

This is a draft copy of a grant agreement, for informational purposes. Awarded applicant would be required to sign a grant agreement with SCDHEC before any billable services could be provided. A grant agreement will be mailed to awarded applicant for signature after the award posting period has ended.

ATTACHMENT #1

SC DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL'S
RYAN WHITE PART B FY 2013 GRANT YEAR REQUEST FOR APPLICATION

<http://www.scdhec.gov/health/disease/stdhiv/caresupp.htm>
under the Emerging Communities section

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ATTACHMENT #2

S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
GRANTEE BUSINESS ASSOCIATE AGREEMENT

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BUSINESS ASSOCIATE AGREEMENT

BETWEEN

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

AND

PURPOSE

The South Carolina Department of Health and Environmental Control (hereafter referred to as "Covered Entity") and _____ (hereafter referred to as "Business Associate") desire to enter into this Business Associate Agreement (hereafter, "BA Agreement" or "the Agreement") for the purpose of protecting the privacy and security of clients' health information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), including all pertinent regulations (45 CFR Part 160 and Part 164), as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act HITECH), Title XIII of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

II. DEFINITIONS Terms used, but not otherwise defined, in this Agreement shall have the same meanings as set forth in HIPAA and HITECH. A change to HIPAA or HITECH which modifies any defined term, or which alters the regulatory citation for the definition, shall be deemed incorporated into this Agreement.

- a. Breach. "Breach" shall have the meaning given under HITECH Section 13400, 42 U.S.C § 17921.
- b. Data Aggregation. "Data Aggregation" shall have the meaning given under the Privacy Rule, including, but not limited to, 45 CFR 164.501.
- c. Designated Record Set. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR 164.501.
- d. Disclose and Disclosure shall have the meaning given in 45 CFR Section 160.103.
- e. Electronic Protected Health Information. "Electronic Protected Health Information" (referred to below as EPHI) shall have the same meaning as the term "electronic protected health information" in 45 CFR § 160.103.
- f. HIPAA. "HIPAA" shall mean the Health Insurance Portability and Accountability Act of 1996, Public Law 104-91, as amended, and related HIPAA regulations (45 CFR Parts 160-164.)
- g. HITECH. "HITECH" shall mean the Health Information Technology for Economic and Clinical Health Act, found in Title XIII of the American Recovery and Reinvestment Act of 2009, Public Law 111-005.
- h. Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

- i. Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information codified at 45 CFR Part 160 and Part 164, Subparts A and E and any other applicable provisions of HIPAA, or amendments thereto, including HITECH.
- j. Protected Health Information. "Protected Health Information" (referred to below as PHI) shall have the same definition contained in 45 CFR §160.103. For purposes of this Agreement, PHI is limited to the information created or received by Business Associate from or on behalf of Covered Entity. "Protected Health Information" includes, without limitation, "Electronic Protected Health Information," as defined below.
- k. Required By Law. "Required By Law" shall have the meaning given to the term under the Privacy Rule, including but not limited to, 45 CFR 164.103, and any additional requirements created under HITECH.
- l. Secretary. "Secretary" shall mean the Secretary of the U. S. Department of Health and Human Services or his/her designee.
- m. Security Incident. "Security Incident" shall have the meaning given in 45 CFR 164.304.
- n. Security Standards. "Security Standards" shall mean the Standards for the Protection of Electronic Protected Health Information that are codified at 45 CFR Part 160 and Part 164, Subparts A and C and any other applicable provision of HIPAA, or amendments thereto, including HITECH.
- o. Unsecured PHI. "Unsecured PHI" shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in Section 13402 of HITECH.
- p. "Use" or "Uses" shall have the meaning given in 45 CFR Section 160.103.

III. USE OR DISCLOSURE OF PHI BY BUSINESS ASSOCIATE

- a. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in Contract # _____, or as otherwise provided by law, if such use or disclosure would not violate the Privacy Rule or the Security Standards if done by Covered Entity.
- b. Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, and may disclose PHI for those purposes provided that as to any such disclosure: 1) the disclosure is required by law; or 2) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which the person is aware in which the confidentiality of the information has been breached.
- c. Business Associate will notify the Covered Entity of any breach of confidentiality or security by a person to whom the Business Associate has disclosed PHI pursuant to this Section, and will mitigate and/or assist the

- person and the Covered Entity in mitigating any harmful effects resulting from the breach of information.
- d. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 42 CFR § 164.504(e)(2)(i)(B).
 - e. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).
 - f. Business Associate may disclose PHI to any of its subcontractors for use in filling the obligations of this Agreement as long as the subcontractor agrees in writing to the restrictions and conditions in this Agreement with respect to PHI.
 - g. Business Associate may disclose PHI to another entity as authorized by the Covered Entity in a separate written agreement or amendment to this agreement, if such disclosure of PHI would not violate the Privacy Rule or HITECH if done by Covered Entity itself.
 - h. Business Associate, upon entering into an agreement using PHI for any of its functions and activities on behalf of the Covered Entity or in its general operations, will make available that agreement to the Covered Entity upon request.

IV. DUTIES OF BUSINESS ASSOCIATE RELATIVE TO PHI

- a. Business Associate shall comply with the Confidentiality provision contained in Contract # _____ and any Confidentiality Agreement signed by the Business Associate pursuant to that Contract for so long as this BA Agreement remains in effect.
- b. Business Associate shall not use or disclose PHI other than as permitted or required by this Agreement or as required by law. Business Associate will not use PHI in any manner that would constitute a violation of the Privacy Rule or HITECH if so used by Covered Entity.
- c. Business Associate shall develop, implement, maintain, and use appropriate safeguards to prevent any use or disclosure of PHI or EPHI other than as provided by this Agreement, and shall implement administrative, physical, and technical safeguards to comply with the Security Standards as required by 45 CFR Sections 164.308, 164.310, 164.312 and 164.316 in order to protect the confidentiality, integrity, and availability of EPHI or PHI that Business Associate creates, receives, maintains, or transmits, to the same extent as if Business Associate were a Covered Entity, pursuant to HITECH Section 13401, 42 U.S.C. § 17931. These safeguards are required regardless of the mechanism used to transmit the information.
- d. Business Associate shall adopt the effective and appropriate technical safeguards and technology and methodology standards provided in any guidance issued by the Secretary pursuant to HITECH Sections 13401-13402, 42 U.S.C. §§ 17931-17932.
- e. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement or of a Breach of Unsecured PHI, pursuant to 45 CFR § 164.530(f) and HITECH § 13402.

- f. Business Associate shall notify Covered Entity by the most expedient manner within one business day of any use or disclosure of PHI or EPHI not authorized by this Agreement or in violation of any applicable federal or state laws or regulations of which Business Associate becomes aware, or of any suspected or actual Security Incident or Breach.
- g. In addition to the notification required by III.f, Business Associate will provide written notification of a Breach of Unsecured PHI to Covered Entity without unreasonable delay and in no event later than 5 calendar days after discovery of the Breach. A Breach of Unsecured PHI shall be treated as discovered by the Business Associate as of the first day on which such breach is known to Business Associate or, by exercising reasonable diligence, would have been known to the Business Associate. Notification of a Breach of Unsecured PHI required by this paragraph shall comply with HITECH Section 13402, 42 U.S.C. § 17932, and 45 CFR § 164.410. The Breach notice shall include, to the extent possible, the identification of each individual whose Unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during the Breach. Business Associate shall provide Covered Entity with the following information at the time of the Breach notification or promptly thereafter as soon as information becomes available:
1. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known, and the nature of the non-permitted use or disclosure;
 2. A description of the unsecured PHI that was involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 3. Who made the non-permitted use or disclosure;
 4. Who received the non-permitted use or disclosure;
 5. Any steps individuals should take to protect themselves from potential harm resulting from the Breach; and
 6. What Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further breaches.
- h. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information and that any agent or subcontractor to whom it provides EPHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity, agrees to implement reasonable and appropriate safeguards to protect such EPHI, including the safeguards required by paragraph IV.c and IV.d above

with respect to EPHI. Business Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of such violation.

- i. Business Associate shall provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to fulfill the requirements of 45 CFR § 164.524 if the Business Associate has PHI in a designated record set. If Business Associate receives a request directly from an Individual, Business Associate will direct the Individual to the Covered Entity.
- j. Business Associate shall make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity, if Business Associate has PHI in a Designated Record St. Business Associate shall not amend PHI received from the Covered Entity or created and/or provided to the Business Associate on behalf of the Covered Entity unless the amendment is directed by or consented to by the Covered Entity. If an Individual requests an amendment of PHI directly from Business Associate or any of its agents or subcontractors, Business Associate will direct Individual to Covered Entity. The Business Associate shall provide a copy of the amended PHI to the Covered Entity.
- k. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. Business Associate agrees to collect and maintain disclosure information as it relates to PHI including: (i) the date of disclosure; (ii) the name of the entity or person who received the PHI and, if known, the address of the entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the Individual of the basis for the disclosure, or a copy of the written request for disclosure under 45 CFR § 164.502(a)(2)(ii) or 164.512, if any. Business Associate will maintain records related to disclosures of PHI for at least six (6) years after the date of the disclosure. The provisions of this subparagraph shall survive termination of this Agreement.
- l. Business Associate will provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with Section IV.k of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. In addition, Business Associate agrees to make PHI available for purposes of accounting of disclosures as required by Section 164.528 of the Privacy Rule and Section 13405(c)(3) of HITECH, 42 U.S.C. § 17935(c)(3). If the request for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall within five (5) days of a request forward it to Covered Entity in writing.
- m. Business Associate shall comply with any requests for restrictions on certain disclosures of PHI pursuant to Section 164.522 of the Privacy Rule to which Covered Entity has agreed and of which Business Associate is notified by Covered Entity

- n. Business Associate shall comply, pursuant to HITECH and its implementing regulations, with all additional requirements of the Privacy Rule, including those contained in 45 CFR 164.502(e) and 164.504(e)(1)(ii) at such time as the requirements are applicable to Business Associate, pursuant to HITECH Section 13404, 42 U.S.C. § 17934.
- o. If applicable, and if requested by Covered Entity, Business Associate will provide a copy of Covered Entity's Notice of Privacy Practices to the client at the time of first contact, and maintain documentation of the client's receipt of the Notice.
- p. Business Associate shall make its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary for purposes of the Secretary determining compliance with the Privacy Rule. Business Associate shall comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held by Business Associate. Business Associate shall provide to Covered Entity a copy of any PHI that Business Associate provides to the Secretary concurrently with providing such PHI to the Secretary.
- q. Except as otherwise permitted by HIPAA standards, until the effective date on which the Secretary issues guidance on what constitutes "minimum necessary," when using or disclosing PHI or responding to a request for PHI, Business Associate and its agents or subcontractors must limit such PHI, to the extent practicable, to a Limited Data Set, or if more information than a Limited Data Set is required, to the minimum necessary to accomplish the intended purpose of such use, disclosure or request. After the effective date on which the Secretary issues guidance on what constitutes "minimum necessary," Business Associate and its agents or subcontractors shall only request, use, and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure, and shall comply with the Secretary's guidance on what constitutes "minimum necessary." See HITECH Section 13405, 42 U.S.C. § 17935.
- r. Business Associate shall provide Covered Entity reasonable access to its premises for review and demonstration of its internal practices and procedures for safeguarding PHI of Covered Entity for purposes of determining that Business Associate has complied with this Agreement and HITECH; provided that 1) the Parties mutually agree in advance upon the scope, location and timing of such access, and 2) Covered Entity shall protect confidential and proprietary information of Business Associate to which Covered Entity has access.
- s. Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.
- t. If Business Associate knows of a pattern of activity or practice of Covered Entity that constitutes a material breach or violation of Covered Entity's obligations under the Agreement or other arrangement, Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, Business Associate must terminate the Agreement or other arrangement if feasible, or, if termination is not feasible, report the problem to the Secretary. Business Associate shall provide written notice to Covered Entity of any pattern of activity or practice of the Covered Entity that Business Associate believes constitutes a material breach or violation of the

Covered Entity's obligations under the Agreement within five (5) days of discovery and shall meet with Covered Entity to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

- u. Business Associate acknowledges that if it violates any of the requirements provided under this Business Associate Agreement, Business Associate will be subject to the same civil and criminal penalties that a Covered Entity would be subject to if such Covered Entity violated the same requirement.
- v. The additional requirements of HITECH that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate and shall be and by this reference are incorporated into this Agreement.
- w. Business Associate will contact the Covered Entity's Privacy Officer at (803) 898-3318 at any time clarification or guidance is needed regarding compliance with the terms of this Agreement.
- x. Business Associate shall not use or disclose PHI for fundraising or marketing purposes.
- y. Business Associate may not enter into any agreements with its agents or subcontractors pertaining to its obligations under this Agreement without the express written consent of Covered Entity.

V. DUTIES OF COVERED ENTITY

- a. If applicable, Covered Entity shall provide the Business Associate with a copy of its policies and procedures implementing the Privacy Rule, including the Notice of Privacy Practices.
- b. Covered Entity shall notify Business Associate of any limitation(s) in Covered Entity's Notice of Privacy Practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- c. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI, within a reasonable period of time after Covered Entity becomes aware of such changes to or revocation of permission.
- d. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to or must comply with in accordance with 45 CFR § 164.522 and HITECH § 13405(a), 42 USC § 17935(a), to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- e. Covered Entity will not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

VI. TERM AND TERMINATION

- a. Term. The Term of this Agreement shall be effective as of _____, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or

returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

b. Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall do any of the following:

1. Provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this Agreement and Contract # _____ if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
2. Immediately terminate this Agreement and Contract # _____ if Business Associate has breached a material term of this Agreement and cure is not feasible;
3. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary;
4. Immediately stop all further disclosures of PHI to Business Associate pursuant to each agreement between Covered Entity and Business Associate that is the subject of such breach, until the breach is cured.

c. Effect of Termination.

1. Except as provided in paragraph (2) of this section, upon termination of this Agreement for any reason or upon written demand from Covered Entity, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies, including backups, of the PHI. If the return or destruction of PHI held by the Business Associate is not permissible pursuant to South Carolina law, the Business Associate will extend the protections of this Agreement to the PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible.
2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

d. Continuing Privacy Obligation. Business Associate's obligation to protect the privacy of PHI is continuous and survives any termination, cancellation, expiration, or other conclusion of this Agreement or any other agreement between Business Associate and Covered Entity.

VII. INDEMNIFICATION (the following does not apply to other government agencies or political subdivisions)

Business Associate agrees to indemnify and hold harmless Covered Entity from any claims, demand, suit, loss, liability, or administrative penalties that the Covered Entity may sustain as a result of the Business Associate's breach of this Agreement, including any breach of confidentiality by a person to whom the Business Associate has disclosed information pursuant to this Agreement; provided, however, that the Business Associate

shall not hold the Covered Entity harmless from any claims, demands or causes of action arising or resulting directly or indirectly from negligence of the Covered Entity, its officers, agents, representatives or employees, or any person or entity not subject to the Business Associate's supervision or control. This indemnification shall include reasonable expenses including attorney's fees incurred by defending such claims and damages incurred by reason of the Business Associate's failure to comply with applicable laws and regulations or for damages caused by the Business Associate, its employees and/or agents, including subcontractors. As a condition precedent to asserting a right of indemnity, the Covered Entity shall provide timely written notice to the Business Associate of the assertion of the claim to which the right of indemnification is claimed to exist.

VIII. MISCELLANEOUS

- a. **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule or the Security Standards means the section as in effect or as amended.
- b. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement to comply with the requirements of the Privacy Rule, the Security Standards, HIPAA, HITECH, or any other state or federal law affecting this Agreement. If a Party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of HITECH or its regulations, such Party shall notify the other Party in writing. For a period of thirty days, the Parties shall address such concern in good faith and amend the terms of the Agreement if necessary to bring it into compliance. If, after such thirty day period, the Agreement fails to comply with HIPAA, the Privacy Rule, the Security Standards or HITECH, then either Party has the right to terminate upon written notice to the other Party.
- c. **Survival.** The respective rights and obligations of Business Associate under Section VI.c and VI.d of this Agreement shall survive termination of this Agreement.
- d. **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule and the Security Standards.
- e. All notices pursuant to this Agreement must be given in writing and shall be effective when received if hand-delivered or upon dispatch if sent by reputable overnight delivery service, facsimile, or U.S. Mail to the appropriate address or facsimile number.
- f. Business Associate and Covered Entity agree that Individuals who are the subject of PHI are not third-party beneficiaries of this Agreement.
- g. The parties acknowledge that state and federal laws relating to electronic data security and privacy are evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA and HITECH and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that Covered Entity must receive satisfactory written assurance from Business Associate that Business Associate will adequately safeguard all PHI that it receives or creates pursuant to this Agreement. Upon Covered Entity's request, Business Associate agrees to promptly enter into negotiations with Covered Entity concerning the terms of any amendment to the Agreement embodying written assurances consistent with the standards and requirements of HIPAA and HITECH or other applicable laws. Covered Entity may terminate this Agreement and Contract # _____ upon thirty (30) days written notice if (i) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by Covered Entity pursuant to this Section, or (ii) Business Associate does not enter into an amendment to this Agreement providing assurances regarding the

safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and HITECH.

- h. If any provision of this Agreement violates any applicable statute, ordinance, or rule of law in any jurisdiction that governs this Agreement, such provision shall be ineffective to the extent of such violation without invalidating any other provision of this Agreement.
- i. This Agreement may not be amended, altered, or modified except by written agreement signed by Business Associate and Covered Entity.
- j. No provision of this Agreement may be waived except by an agreement in writing signed by the waiving party. A waiver of any term or provision shall not be construed as a waiver of any other term or provision.
- k. The persons signing below have the right and authority to execute this Agreement for their respective entities and no further approvals are necessary to create a binding Agreement.
- l. Neither Covered Entity nor Business Associate shall use the names or trademarks of the other party or of any of the respective party's affiliated entities in any advertising, publicity, endorsement, or promotion unless prior written consent has been obtained for the particular use contemplated.
- m. All references to specific statutes, codes, or regulations shall be deemed to be references to those statutes, codes or regulations as they may be amended from time to time.

AS TO DHEC

BY: _____
 (Region Health Director, EQC Director,
 Region Administrator, Health Services or
 EQC Central Office Program Director)

DATE: _____

AS TO THE CONTRACTING PARTY

BY: _____
 (NAME)
 Its: _____
 (TITLE)

DATE: _____

MAILING ADDRESS: _____



ATTACHMENT #3
DHEC Confidentiality Agreement

I understand that the South Carolina Department of Health and Environmental Control (DHEC) has a legal and ethical responsibility to maintain confidentiality of information as to personal facts and circumstances of DHEC employees, clients, or other citizens given or made available to DHEC in administration of the agency's programs and services.

DHEC's Confidentiality Policy states that Information about personal facts and circumstances of DHEC employees, clients and other citizens will be kept confidential and will not be disclosed without the individual's written authorization, except as required by law or as required to perform agency responsibilities. Protected Health Information that identifies an individual generally cannot be released unless properly authorized by the client or his/her legal representative, or pursuant to a specific exception under the Health Insurance Portability and Accountability Act (45 CFR Parts 160 and 164). The Family Privacy Protection Act and other state and federal laws may place additional limitations on disclosure of personal information.

Information that is made available to the public under the Freedom of Information Act must be disclosed in accordance with State law. However, the Freedom of Information Act protects information of a personal nature such that public disclosure would constitute an unreasonable invasion of privacy. The types of information that generally must be kept confidential include, but are not limited to: protected personal information of job applicants, DHEC employees, or members of the public, such as names, social security numbers, addresses, telephone numbers, financial status and information, account or identification numbers issued by government agencies or private financial institutions, confidential business information, vital records information, social security numbers, and health information that identifies individuals.

I understand that during the course of my employment, volunteer services, or contract performance with DHEC, I may see or hear confidential information and/or protected health information.

By signing this agreement, I understand and agree that I will not disclose confidential information or protected health information unless the disclosure complies with DHEC policies and is required to perform my responsibilities. I will not access or view any information other than what is required to do my job. If I have any questions about whether I need access to certain information, or whether certain information should be disclosed, I will immediately ask my supervisor for clarification. I will immediately report any unauthorized disclosure of protected health information or other confidential information as required by DHEC Policy, or as required by terms in any contract or agreement with DHEC to which I am a party.

I will not discuss any confidential information or protected health information obtained in the course of my relationship with DHEC with any person or in any location outside of my area of responsibility in DHEC, except as otherwise required or permitted by law. I will not make any unauthorized copy or disclosure of this information, or remove or transfer this information to any unauthorized location.

I agree that my obligations under this Agreement regarding confidential and protected health information will continue after termination of my employment/volunteer assignment/contract affiliation with DHEC.

I understand that violation of this Agreement may result in termination of my volunteer, contractual and/or work relationship with DHEC and may be grounds for disciplinary action, fines, penalties, imprisonment or civil suit to be brought against me.

I have read the above Agreement and agree to comply with all its terms.

Signature: _____ Date: _____

Witness: _____ Date: _____

Work Location: _____
DHEC 321 Rev 3/2007

Attachment 8

Procedures for Dispute Resolution

I. **DISPUTE PROCEDURES FOR GRANT PROGRAM APPLICATIONS DURING THE APPLICATION PROCESS**

The following dispute procedures are available to any community based organization, local or county program or any other applicant that objects to a requirement in a request for a grant proposal or does not receive a distribution of funding as a grantee under a federal, state, or combined federal/state grant program.

A. Request or Application for Funding. Subject to conditions set forth in these procedures, any prospective applicant that is aggrieved in connection with the proposed evaluation of applications or proposed manner of distribution of funds in the Request for Applications under the Ryan White Program shall submit a letter of concern via e-mail to the Ryan White Program Manager, Leigh Oden (odenl@dhec.sc.gov) within five (5) calendar days of the date of issuance of the Request for Grant Proposals or any amendment thereto if the amendment is at issue. A dispute shall set forth the grounds of the dispute and the relief requested with enough particularity to give notice of the issues to be decided. The Program Manager will render a decision in 24 hours. If the applicant is not satisfied with the decision rendered by the Program, the applicant shall notify the DHEC Deputy Director of Administration in writing within two (2) business days of the date of the e-mailed, written response from the Ryan White Program Manager. This notification should be sent to the Deputy Director of Administration, Barbara Derrick Barbara.Derrick@dhec.sc.gov. The Deputy Director of Administration will conduct a review, with the assistance of the Chief Counsel, Administration, or his or her delegate, and provide a written response within five (5) business days. The decision of the Deputy Director of Administration will be final and conclusive.

B. Award to an Applicant. Any applicant that is aggrieved in connection with the Notification of Award shall submit a letter of concern to the DHEC Deputy Director of Administration within three (3) business days of the Notification of Award date. The Deputy Director of Administration will conduct a review, with the assistance of the Chief Counsel, Administration, or his or her delegate, and provide a written response within five (5) business days. The decision of the Deputy Director of Administration will be final and conclusive.

C. Notice of Decision. A copy of all decisions under this dispute resolution procedure shall be mailed or otherwise furnished immediately to the aggrieved party and any other party intervening.

II. PROCEDURES FOR GRANTS DISPUTES REGARDING DHEC'S EVALUATION OF A GRANTEE'S EXPENDITURES IN THE POST-AWARD PHASE

A. Applicability. These procedures apply to controversies between DHEC and the grantee when the grantee disagrees with DHEC's evaluation of an expenditure by the grantee as "not allowed" under the grants program requirements. These procedures constitute the exclusive means of resolving a controversy between DHEC and a grantee of an awarded grant.

B. Complaint against Ryan White Program Management. A grantee has 30 days after the discovery of a dispute or controversy over the program's denial of an expenditure to notify in writing the Ryan White Program Manager of the identification of the dispute or controversy. The Ryan White Program Manager has 45 days to review and attempt to informally resolve the dispute or controversy. If the dispute cannot be mutually resolved, the grantee may raise the dispute or controversy, in writing, to the STD HIV Division Director, Janet Tapp (tappjw@dhec.sc.gov) within five (5) business days. The STD HIV Division Director, or his or her designee, will offer to meet or conference call with the grantee within fourteen (14) days of receipt of the dispute. The STD HIV Division Director, will provide a written determination within 10 days of his or her decision regarding the expenditure after consultation with HRSA.