

Attachment L (R 10.12.12)
YOUTH SERVICE BUREAU SERVICES GRANT AGREEMENT
EDS#

This Grant Agreement (the "Grant Agreement"), entered into by and between the Indiana Department of Child Services (hereinafter referred to as "State" or "DCS"), and (hereinafter referred to as "Grantee"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Purpose of this Grant Agreement; Grant Funds

- A. **Purpose:** The purpose of this Grant Agreement is to enable the State to award an annual grant for certain youth service bureau services (the "Grant"), as authorized in Indiana Code ("IC") § 31-26-1 *et seq.*, to the Grantee, as a certified youth service bureau as defined in IC § 31-26-1-2 ("Youth Service Bureau"), for eligible costs of the services/project (referred to herein as the "Youth Service Bureau Services/Project") as described in more detail herein in the county or counties for which the Grantee has been chosen by the State to provide such services/project as set forth below in Section 3(A)(4).
- B. **Funding:** Funding for this Grant Agreement is provided by the State through IC § 31-26-1 *et seq.* (which establishes the "Youth Service Bureau Fund"), with funds appropriated by the Indiana General Assembly, and administered by the State pursuant to IC § 31-25-1-1 *et seq.* Such funds shall be used exclusively in accordance with the provisions contained in this Grant Agreement and in conformance with IC § 31-26-1 *et seq.* establishing the authority to make this Grant, as well as any rules adopted thereunder. The funds received by the Grantee pursuant to this Grant Agreement shall be used only to implement the Youth Service Bureau Services/Project or provide the services in accordance with this Grant Agreement and for no other purpose.

2. Representations and Warranties of the Grantee

The Grantee expressly represents and warrants to the State that it is statutorily eligible to receive these Grant funds and that the information set forth in its grant application is true, complete and accurate. The Grantee expressly agrees to promptly repay all funds paid to it under this Grant Agreement should it be determined either that it was ineligible to receive the funds, or it made any material misrepresentations on its grant application.

3. Implementation of and Reporting on the Project

- A. In order to accomplish the above-referenced Purpose in Section 1(A), the Grantee shall provide the Youth Service Bureau Services/Project set out in more detail herein and in accordance with the following (all of which are hereby incorporated by reference):

- (1) The Youth Service Bureau Services Request for Proposal and all of its attachments (the “Youth Service Bureau RFP”), which was issued by the State in August 2012; and
- (2) The most current version of DCS’ service standards applicable to the services/project provided by the Grantee pursuant to this Grant Agreement (the “DCS’ Service Standards”), as such DCS’ Service Standards are modified/updated from time to time by DCS but always available in their most current form at the following link (or any designated successor website):

<http://www.in.gov/dcs/3158.htm>

- (3) The Grantee’ Response to the Youth Service Bureau RFP (the “Grantee’s RFP Response”), which was submitted by the Grantee in accordance with the specifications of the Youth Service Bureau RFP; and
- (4) As set forth herein, in **Attachment A** (which is attached hereto and hereby incorporated by reference), and as described in the Youth Service Bureau RFP and as approved by the State, the Grantee must provide the Youth Service Bureau Services/Project for the county or counties for which the Grantee has been chosen by the State to provide such services/project. As set forth in the notification received from the State by this Grantee, this Grantee shall provide the Youth Service Bureau Services/Project for the following county or counties: .

B. The Grantee agrees to comply with all terms, provisions and conditions applicable to the Youth Service Bureau Services/Project it provides to the State pursuant to this Grant Agreement, including, but not limited to, service categories, objectives, and currently applicable DCS’ Service Standards, as set forth above in paragraph A of this Section, including all statements, provisions, and assurances made in conjunction with the Youth Service Bureau RFP and the Grantee’s RFP Response, except to the extent that the terms of this Grant Agreement might specifically modify those statements, provisions, and assurances. The assurances (“Assurances”) (which are hereby incorporated by reference) can be found at the following link (or any designated successor website):

<http://www.in.gov/dcs/3158.htm>

C. The Youth Service Bureau Fund is designed to provide reimbursement for community-based service delivery of Youth Service Bureaus in accordance with four (4) core roles as outlined in IC § 31-26-1-3(2):

- (1) Support, represent, and protect the rights of young people.

- (2) **Prevent adolescent misbehavior and divert young people from the justice system.**
- (3) Maintain a referral system with other service agencies that might benefit young people.
- (4) Inform and educate citizens about the functions and services available through the organization and serve as a link between the needs of youth and the community.

For purposes of the Youth Service Bureau RFP referenced above in paragraph A(1) of this Section, the juvenile delinquency prevention services highlighted directly above in subparagraph (2) are the only Youth Service Bureau Services/Project that DCS is purchasing from the Grantee. However, the Grantee must have the services described in the remaining three (3) core roles (as referenced directly above in subparagraphs (1), (3), and (4)) in place in order for DCS to fund the juvenile delinquency prevention services component highlighted above through this Grant Agreement.

- D. Required Attendance at Indiana Youth Services Association, Inc. (“IYSA”) Trainings and Peer Reviews: Each year of this Grant Agreement, **if a member of IYSA**, the Grantee must attend three (3) of the four (4) IYSA quarterly trainings offered for Youth Service Bureaus. Also, each year of this Grant Agreement, the Grantee must participate in up to two (2) IYSA-conducted Youth Service Bureau peer reviews.
- E. Required Reports: The Grantee must comply with all of the reporting requirements specified in the currently applicable DCS’ Service Standards.
- F. In addition to meeting the reporting requirements described above in paragraph E of this Section, the Grantee agrees to prepare and submit to the State, if requested by the State, any information required by the State for reports and evaluations necessary to monitor services or programs and outcomes. The Grantee will provide all information reasonably requested by the State (in the format requested by the State) and will cooperate with and assist the State in preparing such reports and evaluations. DCS will attempt to standardize the timing and content of required reports to the extent it can.
- G. The State shall monitor and review the Grantee’s delivery of services during the term of this Grant Agreement. The procedure that the State uses for monitoring the Grantee may change during the term of this Grant Agreement, and the Grantee will be notified of any changes in procedure. The procedure that the State uses for monitoring the Grantee may include, but not be limited to, the following:
 - (1) Conduct on-site visits and case file reviews as a means of ensuring quality service provision;

- (2) Conduct interviews with Youth Service Bureau program beneficiaries and other representative persons in the community who have knowledge of the Youth Service Bureau Services/Project provided by the Grantee;
 - (3) Review of the Grantee's documents, reports, and records concerning its provision of the Youth Service Bureau Services/Project;
 - (4) Review of invoices submitted by the Grantee for payment or reimbursement, in relation to the billable units/payment points/service components and funding amounts allocated per county or counties for which the Grantee has been selected to provide the Youth Service Bureau Services/Project and in relation to the total remuneration amount for this Grant Agreement (as such amounts are set forth in Section 5 below and set forth in **Attachment A**);
 - (5) Review of IYSA's report(s) on outcomes;
 - (6) Information received verbally or in writing from DCS concerning the Grantee's delivery of services requested or approved;
 - (7) Information received verbally or in writing from service recipients, directly or through a DCS' local office, regarding services provided by the Grantee;
 - (8) Review of the results of services provided in relation to the desired outcomes of those services as stated herein, in the currently applicable DCS' Service Standards, in the Youth Service Bureau RFP, and/or in the Grantee's RFP Response;
 - (9) Review of demographic and outcome data or other relevant data provided through DCS' current approved database system; and
 - (10) Information contained in any reports and evaluations relating to the Grantee's delivery of services under this Grant Agreement.
- H. As requested by DCS, the Grantee shall provide self-authenticated records to DCS.
- I. The Grantee hereby agrees that all actual cost items and/or pass through cost items related to and/or part of the services it provides pursuant to this Grant Agreement must be at reasonable rates and not above the prevailing market rates.
- J. Disaster Plan: The Grantee shall send its disaster plan to DCS within thirty (30) days of the commencement date of this Grant Agreement.

- K. Return of Equipment to DCS and/or Transfer of Equipment to Successor: Any equipment (as defined by DCS), which includes, but is not limited to, any technological equipment, such as computers, copiers, printers, etc., that the Grantee acquires with funds it receives pursuant to this Grant Agreement shall, upon DCS' election, be returned to DCS and/or transferred to a successor grantee upon the expiration and/or termination of this Grant Agreement.
- L. Design/Implementation/Modification: The Grantee shall be solely responsible for the proper design and implementation of the Youth Service Bureau Services/Project as described above in detail in this Section of this Grant Agreement (including all of its attachments and links to relevant website information). The Grantee agrees to complete the Youth Service Bureau Services/Project in accordance with the plans and specifications outlined in detail above in this Section (including all of its attachments and links to relevant website information), which includes, but is not limited to, the currently applicable DCS' Service Standards, the Grantee's RFP Response which is on file with the State, as well as in accordance with all of the other plans and/or specifications contained and/or referenced above. Modification of the Youth Services Bureau Services/Project shall require prior written approval of the State.

4. Term

This Grant Agreement shall be effective for a period of two (2) years. It shall commence on July 1, 2013, and shall remain in effect through June 30, 2015. As set forth in Section 42, this Grant Agreement may be extended or renewed upon the written agreement of the parties and in conformance with IC § 5-22-17-4, and as permitted by the state or federal law governing this Grant.

5. Grant Funding

The payment of this Grant by the State to the Grantee shall be made in accordance with the following schedule and conditions:

- A. This Grant Agreement must be fully executed.
- B. The Grantee shall be reimbursed by the State for allowable costs incurred by the Grantee in accordance with this Grant Agreement (including all of its attachments and links to relevant website information) and the currently applicable DCS' Service Standards. The Grantee shall be paid for services conducted through this Grant Agreement in an amount not to exceed \$ _____, which is the "Total Dollar Amount" specified in **Attachment A**. Such Total Dollar Amount includes a not to exceed amount of \$ _____ for State fiscal year July 1, 2013 – June 30, 2014, and a not to exceed amount of \$ _____ for State fiscal year July 1, 2014 – June 30, 2015. The Grantee shall be reimbursed in arrears for services provided pursuant to this Grant Agreement only upon presentation of approved and signed state of Indiana invoices in accordance with

the procedures set forth in Section 6 of this Grant Agreement. Such invoices must be submitted with the budget expenditure report detailing disbursements of State funds by any applicable billable units/payments points or project budget line items. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC § 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Grantee in writing, unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Grant Agreement except as permitted by IC § 4-13-2-20.

- C. As indicated above in Section 3(I), the Grantee hereby agrees that all actual cost items and/or pass through costs related to and/or a part of the services it provides pursuant to this Grant Agreement must be at reasonable rates and not above prevailing market rates.
- D. Any amount payable to the Grantee pursuant to paragraph B of this Section and **Attachment A** is subject to reduction:
 - (1) to the extent it is not expended by the Grantee as an allowable program cost, consistent with the Grantee's approved budget and cost allocation plan, as provided in Section 6(H), or
 - (2) to correspond to funds appropriated and available to the State for payment under this Grant Agreement. This provision is separate from and in addition to those under Section 12 [Funding Cancellation], Section 34 [Funding Limitations], and Section 41 [Modification] and allows the State to adjust payments for individual service components/billable units/payment points or overall consideration, at the State's discretion, to limit payments to available funding. The State will endeavor to give the Grantee advance notice of any adjustments.
- E. If any portion of the Grantee's approved budget includes reimbursement for travel expenses, those travel expenses (including per diem, if any) will be paid in accordance with the State Travel Policies and Procedures as specified in the Financial Management Circular in effect at the time the travel expense was incurred and as outlined in detail in Section 54 of this Grant Agreement.
- F. If advance payment of a portion of the Grant funds is permitted by statute, and the State agrees to provide such advance payment, it shall be made only upon submission of a proper claim setting out the intended purposes of those funds. After such funds have been expended, the Grantee shall provide the State with a reconciliation of those expenditures.
- G. The Grantee shall submit invoices and such invoice documentation as may be required by the State for payment under this Grant Agreement in accordance with the procedures set forth in Section 6. Any additional evidentiary materials

- required by this Grant Agreement (including all of its attachments and links to website information) must be submitted to and approved by the State.
- H. The Grantee shall comply with all statements, assurances and provisions set forth in all of the standards and documents referenced in Section 3 of this Grant Agreement, which includes, but is not limited to the currently applicable DCS' Service Standards, the Grantee's RFP Response, and any other proposal, program narrative, plan, budget or other document submitted by the Grantee and approved by State for the purpose of obtaining funding through this Grant Agreement.
 - I. Any other Grant conditions must be met to the State's satisfaction.
 - J. The State may require evidence furnished by the Grantee that substantial progress has been made toward completion of the Youth Service Bureau Services/Project prior to making the first payment under this Grant. All payments are subject to the State's determination that the Grantee's performance to date conforms to the Youth Service Bureau Services/Project as approved, notwithstanding any other provision of this Grant Agreement.
 - K. The Grantee shall timely submit all reports requested by DCS as set forth in the currently applicable DCS' Service Standards and Section 46 of this Grant Agreement.
 - L. If this Grant Agreement is terminated by either party prior to the expiration of this Grant Agreement, the State may promptly conduct an on-site monitoring of the Youth Service Bureau Services/Project and complete a services/project monitoring report.
 - M. Failure to complete the Youth Services Bureau Services/Project and expend State funds in accordance with this Grant Agreement may be considered a material breach, and shall entitle the State to impose sanctions against the Grantee including, but not limited to, suspension of all Grant payments, and/or suspension of the Grantee's participation in State grant programs until such time as all material breaches are cured to the State's satisfaction. Sanctions may also include repayment of all State funds expended that are not in the scope of the Youth Service Bureau Services/Project or the budget the State has approved for this Grant Agreement, as included in **Attachment A** and referenced in Section 3.
 - N. This Grant Agreement shall be governed by and construed in accordance with the laws of the state of Indiana and suit, if any, must be brought in the state of Indiana. If any term, covenant, condition, or provision of this Grant Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision shall remain in full force and effect.
 - O. The funding provided to the Grantee hereunder, as specified in **Attachment A**, is an annual grant for the purposes specified herein, pursuant to IC § 31-26-1-3.

6. Payment of Claims and Fiscal Requirements

- A. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC § 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Grantee in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Grant Agreement except as permitted by IC § 4-13-2-20. If the Grantee prefers not to have any interest calculated on payments made by the State as permitted by Indiana law and referenced in Section 44 of this Grant Agreement, the Grantee may send a letter indicating such preference to the Indiana Auditor of State with a copy to DCS.
- B. The Grantee shall submit all requisite information, as determined by DCS, for invoices and such invoice documentation as may be required by DCS for payment or reimbursement under this Grant Agreement electronically on a monthly basis to DCS' approved database (which is currently the Datatude system) after the end of each calendar month during the term of this Grant Agreement. Such electronic submission must be done by noon on the tenth (10th) of the month following the month of the invoice or by noon on the Monday following the tenth (10th) of the following month if the tenth (10th) falls on a Saturday or Sunday. The Grantee shall then download the invoice generated by DCS' approved database system (which is currently the Datatude system), sign the invoice, and submit the signed invoice to DCS identifying expenditures for which reimbursement is claimed in relation to the Grantee's billable units/payment points/service categories specified in the budget DCS has approved for this Grant Agreement and/or in **Attachment A**. DCS will notify the Grantee of any change in invoice procedure, and the Grantee shall use whatever invoice form and documentation are required by DCS' then current procedure and shall submit the appropriate invoices and documentation to DCS, as directed. As referenced above, invoices may be submitted monthly for services performed during the calendar month(s) preceding the date of the invoice. Payment will be due not later than thirty-five (35) days after the date Grantee's properly prepared invoice is received by DCS, together with any requisite documentation as approved by DCS. However, the payment due date shall not apply to any invoice that is disapproved or returned to the Grantee by DCS for revision or additional documentation, within thirty-five (35) days after the date it is received by DCS. The Grantee's invoice must be dated no earlier than the later of (a) the first date the Grantee is entitled to submit an invoice for payment under the applicable provision of this Grant Agreement, or (b) one (1) day before the date the invoice and accompanying invoice documentation is delivered or mailed to DCS.
- C. An invoice will not be deemed to be properly prepared as required above in paragraph B if it is not received within ten (10) business days of the date included on the invoice (the "Invoice Date"). Any invoices submitted more than ten (10) business days after the Invoice Date will be deemed improperly prepared and will not be paid. DCS shall return such improperly prepared invoices to the Grantee for

- revision and such invoices must be resubmitted by the Grantee with a current Invoice Date in order to be processed for payment.
- D. Payment of each invoice shall be conditioned on collection and entry of all data required to complete quarterly and annual reports, as provided in Section 3(E) and Section 46 of this Grant Agreement.
 - E. No costs may be incurred or services provided by the Grantee for reimbursement or payment under this Grant Agreement after the expiration date of the term stated in Section 4 of this Grant Agreement.
 - F. A properly prepared invoice must be submitted to DCS within sixty (60) calendar days after the date services are provided or costs incurred pursuant to this Grant Agreement. DCS may elect to deny payment of any invoices that are not timely submitted as required in this paragraph. In the event the Grantee delays submitting an invoice for which it expects third-party reimbursement, the Grantee may submit a written explanation to DCS as to why the invoice was not timely submitted. If the invoice was delayed because of billing Medicaid for reimbursement that was denied, the explanation must include the specific reason(s) for denial. If DCS deems that such written explanation described above is satisfactory, DCS shall pay otherwise valid claims. In the event that Medicaid has denied reimbursement because the Grantee failed to provide adequate documentation for an otherwise reimbursable claim, DCS will only be liable to pay the amount it would have paid had Medicaid approved the claim.
 - G. Approval and payment of final invoices will be conditioned upon receipt and approval of all State-required documentation. As State invoice or recordkeeping systems change, the Grantee may need to modify its systems to be compatible with State systems. The State will provide reasonable notice of any such changes.
 - H. The Grantee shall maintain financial and accounting records which identify the specific costs attributable to each service code/billable unit/payment point and/or service component specified in the budget the State has approved for this Grant Agreement and/or in **Attachment A**. The Grantee shall further maintain a written cost allocation plan, available to the State upon request, which identifies procedures for attributing indirect costs to each service code/billable unit/payment point and/or service component. More restrictive fiscal accountability may be required of the Grantee by the State should the State determine that the Grantee is financially unstable, has a history of poor accountability, or has a management system which does not meet the standards required by the state of Indiana.
 - I. The Grantee shall maintain the funds received from the State pursuant to this Grant Agreement in an identifiable bookkeeping account and shall use the funds solely for the purposes set forth in this Grant Agreement, in accordance with the terms of this Grant Agreement and in **Attachment A**.

- J. The Grantee agrees to follow generally accepted accounting procedures and practices which sufficiently and properly reflect all costs incurred by the Grantee pursuant to this Grant Agreement.
- K. If the Grantee is being paid in advance for the maintenance of equipment and/or software, pursuant to IC 4-13-2-20(b)(14), the Grantee agrees that if it fails to perform the maintenance required under this Grant Agreement, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

7. Project Monitoring by the State

- A. As referenced above in Section 3(G), the State may, at any time during the term of this Grant Agreement, review and monitor the quality and effectiveness of the Youth Service Bureau Services/Project that the Grantee is providing pursuant to this Grant Agreement. The State's program review may include, but is not limited to, on-site visits, interviews with program beneficiaries and other representative persons in the community who have knowledge of the services provided by the Grantee, and review of the Grantee's documents, reports, and records concerning services provided. Such monitoring review may document some or all of the following:
 - (1) Whether the Youth Service Bureau Services/Project activities are consistent with those set forth in the currently applicable DCS' Service Standards, and all of the other terms and conditions of this Grant Agreement.
 - (2) The effectiveness of the Youth Service Bureau Services/Project that the Grantee is providing in accordance with the currently applicable DCS' Service Standards, focusing particularly on the effectiveness of the Grantee's programs and services in meeting the goals and objectives stated in the currently applicable DCS' Service Standards, the terms and conditions of this Grant Agreement, and in I.C. § 31-26-1 *et seq.*
 - (3) A complete, detailed analysis of actual state, local and/or private funds expended to date on the Youth Service Bureau Services/Project and conformity with the amounts set forth in the budget the State has approved for this Grant Agreement and/or in **Attachment A**.
 - (4) A detailed listing of all Youth Service Bureau Services/Project costs which are accrued yet unpaid, if any.
- B. The State may also review the Grantee's performance through a peer review of the Grantee's programs and operations conducted by the IYSA, in accordance with the State's contract with IYSA for youth services grant administration, and

any peer review report concerning the Grantee that is submitted by IYSA to the State.

- C. Following any State monitoring visit or review of the Grantee, the State may provide a written report to the Grantee. The State's report may contain observations, evaluations, suggestions, and/or specific directions for corrective action by the Grantee, and it may contain the State's evaluation of the Grantee's timely progress in project management, financial management and control systems, procurement systems and methods, and performance relative to timely submission of project reports. In the event specific corrective action is required, the Grantee will have sixty (60) days from the receipt of the directions to comply, unless a different time period for correction is specified by the State. A failure of the Grantee to comply with the State's specific directions will be treated as a breach of this Grant Agreement. In the case of a dispute, the State and the Grantee will meet at their earliest convenience to resolve the issue in question.

8. Audits/Monitoring and Maintenance of Records

- A. The Grantee and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Grant Agreement. They shall make such materials available at their respective offices at all reasonable times during the Grant Agreement term and for three (3) years from the date of final payment under this Grant Agreement for inspection by the State or by any other authorized representative of the state of Indiana or the United States. Copies thereof shall be furnished at no cost to the State if requested.
- B. Following the expiration or termination of this Grant Agreement, the Grantee shall secure an audit of funds provided by the State pursuant to this Grant Agreement, unless the Grantee has obtained a waiver of this requirement from the Indiana State Board of Accounts and the State, in accordance with the applicable audit guidelines and procedures provided by the State to the Grantee. If require, the audit is to be conducted by an independent public or certified public accountant (or, as applicable, the State Board of Accounts), and performed in accordance with IC § 5-11-1-1 *et seq.*, the Indiana State Board of Accounts' publication entitled "Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources".
- C. The Grantee must timely file an "Entity Annual Report" (Form E-1) with the State and the Indiana State Board of Accounts, unless the Grantee is an agency of the state of Indiana or a local or quasi-governmental agency.
- D. Audits must be conducted in accordance with Generally Accepted Auditing Standards (GAAS).
- E. Completed audits must be submitted to the State within thirty (30) days after receipt of the auditor's report, but in no event later than nine (9) months after the end of the

audit period. The Grantee agrees to provide to the State a legible copy, or if requested an original, of all audits addressed to Robin Degner, Controller, Indiana Department of Child Services, 402 West Washington Street, Room W392, Indianapolis, Indiana 46204.

- F. The State and the Indiana State Board of Accounts reserve the right to approve any auditor to be employed by the Grantee to conduct the audit specified in paragraph B of this Section. Further, if applicable, the Grantee shall require its subcontractors to secure audits in accordance with paragraph B of this Section, and to timely file all reports required by the Indiana State Board of Accounts.
- G. The Grantee shall, upon written demand by the State, be required to repay the State all sums paid by the State to the Grantee for which adequate fiscal and/or service delivery documentation is not in existence for any time period audited. If an audit of the Grantee results in an audit exception, the State shall have the right to demand cash repayment, or withhold payment of current invoices in a like amount pending resolution between the parties of any disputed amount.
- H. The Grantee agrees that the State has the right to make recommendations and findings in connection with any monitoring or audit of the Grantee's operations, and the Grantee agrees to comply with any corrective actions specified by the State, within the time limits established by the State.
- I. The Grantee will provide to the State, upon request, a copy of any document or report prepared and maintained by the Grantee relative to the costs incurred in providing the services described in the currently applicable DCS' Service Standards, in Section 3, and in **Attachment A**, determined in accordance with the Grantee's cost allocation plan as described in Section 6(H).
- J. The parties agree that prompt compliance by the Grantee with a request by the State to submit program and financial documentation is critical to this Grant Agreement and that a failure of the Grantee to comply with any such request could result in immediate suspension of payments hereunder or termination of this Grant Agreement by the State.
- K. The parties agree that any authorized employee or representative of the State or the state of Indiana (hereinafter referred to as "governmental agent") shall have the right to enter the premises of the Grantee or any subcontractor of the Grantee and inspect or audit any records and property maintained by the Grantee or its subcontractors in connection with this Grant Agreement. The Grantee and its subcontractors shall make all books, records, and documents that relate to their activities under this Grant Agreement available for inspection, review, and audit when requested by a governmental agent. The Grantee shall ensure the cooperation of its employees, officers, board members, and subcontractors in any review, audit, or inspection conducted by a governmental agent.

9. Compliance with Laws

- A. The Grantee shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, including any disaster plan protocol (IV-E and IV-B), and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Grant Agreement shall be reviewed by the State and the Grantee to determine whether the provisions of this Grant Agreement require formal modification.
- B. The Grantee and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6 *et seq.*, IC § 4-2-7 *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Grantee is not familiar with these ethical requirements, the Grantee should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Grantee or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Grant Agreement immediately upon notice to the Grantee. In addition, the Grantee may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44-1-3, and under any other applicable laws.
- C. The Grantee certifies by entering into this Grant Agreement that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the state of Indiana. The Grantee agrees that any payments currently due to the state of Indiana may be withheld from payments due to the Grantee. Additionally, further work or payments may be withheld, delayed, or denied and/or this Grant Agreement suspended until the Grantee is current in its payments and has submitted proof of such payment to the State.
- D. The Grantee warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Grantee agrees that the State may suspend funding for the Youth Service Bureau Services/Project. In the event of DCS' receipt of a report (verbal or written) of criminal or potentially criminal activity by a member of the Grantee's staff (including any of the Grantee's subcontractors and their staff) that potentially threatens/endangers the life, health, or safety of any DCS' ward(s), DCS may immediately require a temporary suspension of such member of the Grantee's staff (including any of the Grantee's subcontractors and their staff) pending an investigation into the report.
- E. If a valid dispute exists as to the Grantee's liability or guilt in any action initiated by the State or its agencies, and the State decides to suspend funding to the Grantee, the Grantee may submit, in writing, a request for review to the Indiana

Department of Administration ("IDOA") following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any disbursements that the State may delay, withhold, deny, or apply under this Section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.

- F. The Grantee warrants that the Grantee and any contractors performing work in connection with the Youth Service Bureau Services/Project shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Grant Agreement and grounds for immediate termination and denial of further work with the State.
- G. The Grantee affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC § 5-22-3-7:
 - (1) The Grantee and any principals of the Grantee certify that:
 - (A) the Grantee, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (i) IC § 24-4.7 [Telephone Solicitation of Consumers];
 - (ii) IC § 24-5-12 [Telephone Solicitations]; or
 - (iii) IC § 24-5-14 [Regulation of Automatic Dialing Machines];in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and
 - (B) the Grantee will not violate the terms of IC § 24-4.7 for the duration of the Grant Agreement, even if IC § 24-4.7 is preempted by federal law.
 - (2) The Grantee and any principals of the Grantee certify that an affiliate or principal of the Grantee and any agent acting on behalf of the Grantee or on behalf of an affiliate or principal of the Grantee, except for de minimis and nonsystematic violations,
 - (A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC § 24-4.7 for the duration of the Grant Agreement, even if IC § 24-4.7 is preempted by federal law.

10. Drug-Free Workplace Certification

As required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana, the Grantee hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Grantee will give written notice to the State within ten (10) days after receiving actual notice that the Grantee, or an employee of the Grantee in the state of Indiana, has been convicted of a criminal drug violation occurring in the workplace.

False certification or violation of this certification may result in sanctions including, but not limited to, suspension of Grant Agreement payments, termination of this Grant Agreement and/or debarment of grant opportunities with the state of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total grant amount set forth in this Grant Agreement is in excess of \$25,000.00, the Grantee certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace, and specifying the actions that will be taken against employees for violations of such prohibition; and
- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Grantee's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Grantee of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; and
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction; and
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

11. Employment Eligibility Verification

As required by IC § 22-5-1.7, the Grantee hereby swears or affirms under the penalties of perjury that:

- A. The Grantee has enrolled and is participating in the E-Verify program;

- B. The Grantee has provided documentation to the State that is has enrolled and is participating in the E-Verify program;
- C. The Grantee does not knowingly employ an unauthorized alien; and
- D. The Grantee shall require its contractors who perform work under this Grant Agreement to certify to the Grantee that the contractor does not knowingly employ or contract with an unauthorized alien and that the contractor has enrolled and is participating in the E-Verify program. The Grantee shall maintain this certification throughout the duration of the term of a contract with a contractor.

The State may terminate this Grant Agreement for default if the Grantee fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

12. Funding Cancellation

When the Director of the State Budget Agency ("SBA") makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Grant Agreement, this Grant Agreement shall be canceled. A determination by the Director of SBA that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

13. Governing Law

This Grant Agreement shall be governed, construed, and enforced in accordance with the laws of the state of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the state of Indiana.

14. Information Technology Accessibility Standards

Any information technology related products or services purchased, used or maintained through this Grant Agreement must be compatible with the principles and goals contained in the Electronic and Information Technology Accessibility Standards adopted by the Architectural and Transportation Barriers Compliance Board under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. § 794d), as amended. The federal Electronic and Information Technology Accessibility Standards can be found at: <http://www.access-board.gov/508.htm>.

15. Nondiscrimination

- A. Pursuant to the Indiana Civil Rights Law, specifically including IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, and except as permitted by 28 CFR Part 38 "Equal Treatment for Faith-Based Organizations", the Grantee covenants that it shall not discriminate against any employee or applicant for employment relating to this Grant Agreement with

respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). The Grantee certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Grant Agreement, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Grantee or any contractor/subcontractor.

- B. The Grantee further agrees to comply with all applicable provisions of Indiana Code 22-9; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d; Title II of the Americans with Disabilities Act, 42 U.S.C. 12134; and all other non-discrimination laws and regulations of the United States and the state of Indiana. In particular, the Grantee will ensure that no person shall, on the grounds of race, age, color, religion, sex, disability, national origin, ancestry, or status as a veteran, be excluded from participating in or be denied the benefit of the Grantee's services, or otherwise be subjected to discrimination under any program or activity for which the Grantee or its subcontractors receive, directly or indirectly, state or federal funds.
- C. The Grantee understands that the State is a recipient of federal funds, and therefore, where applicable, the Grantee and any contractors/subcontractors shall comply with requisite affirmative action requirements, including, but not limited to, reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246.
- D. The parties agree that any publicity release or other public reference, including media releases, information pamphlets, etc., relative to the services provided under this Grant Agreement, will clearly state that all services are provided without regard to race, age, color, religion, sex, disability, national origin, ancestry, or status as a veteran.

16. Notices to Parties

- A. Whenever any notice, statement or other communication is required under this Grant Agreement, it shall be sent via first-class U.S. mail and/or e-mailed to the following addresses, unless otherwise specifically advised.

- (1) Notices to the State shall be sent and/or e-mailed to:

Ginny Morris
Indiana Department of Child Services
302 W. Washington Street, Room E306, MS 47
Indianapolis, IN 46204
E-mail: Ginny.Morris@dcs.in.gov

Copy to: David Westenberger, Chief Executive Officer
Indiana Youth Services Association
445 N. Pennsylvania St., Suite 945
Indianapolis, IN 46204
E-mail: dwestenberger@indysb.org

- (2) Notices to the Grantee shall be sent and/or e-mailed to:

(Contact name)
(Contact title, if applicable)
(Name of Agency)
(Address Line 1)
(Address Line 2)
(E-mail address)

- B. Notice of any change in the person or address to whom notices should be sent, as specified in paragraph A of this Section, shall be given to the other party in the manner provided in paragraph A of this Section.
- C. Notices shall be deemed effective when received or three (3) days following the date of postmark, if sent by prepaid certified mail, return-receipt requested.
- D. As required by IC § 4-13-2-14.8, payments to the Grantee shall be made via electronic funds transfer in accordance with instructions filed by the Grantee with the Indiana Auditor of State.

17. Order of Precedence

Any inconsistency or ambiguity in this Grant Agreement shall be resolved by giving precedence in the following order: (1) This Grant Agreement; (2) any written notices given by the State to the Grantee (including any attachments thereto) pursuant to Section 41 of this Grant Agreement; (3) **Attachment A**; (4) **Exhibit 1** (which shall be described above in Section 26 of this Grant Agreement); (5) the most current form of DCS' Service Standards and Assurances (which are described in Section 3(A)(2) and Section 3(B) of this Grant Agreement); (6) the Youth Service Bureau RFP; and (7) the Grantee's RFP Response. All attachments, and all documents referred to in this paragraph, are hereby incorporated fully by reference.

18. Termination for Breach and Termination or Suspension for Additional Reasons

A. Termination for Breach

- (1) Failure to complete the Youth Service Bureau Services/Project and/or expend state, local and/or private funds in accordance with this Grant Agreement may be considered a material breach, and shall entitle the State to suspend Grant payments, and suspend the Grantee's participation in State grant programs until such time as all material breaches are cured to the State's satisfaction.
- (2) The expenditure of state or federal funds other than in conformance with the Youth Service Bureau Services/Project or the budget DCS has approved for this Grant Agreement may be deemed a breach. The Grantee explicitly covenants that it shall promptly repay to the State all funds not spent in conformance with this Grant Agreement.
- (3) The State may terminate this Grant Agreement in whole or in part if the Grantee fails to:
 - (a) Correct or cure any breach of this Grant Agreement; the State, at its discretion, shall determine whether it will allow the Grantee a certain period of time to correct or cure such breach if the State determines progress is being made and the extension is agreed to by the parties;
 - (b) Deliver the supplies or perform the services within the time specified in this Grant Agreement or any extension;
 - (c) Make progress so as to endanger performance of this Grant Agreement; or
 - (d) Perform any of the other provisions of this Grant Agreement.
- (4) If the State terminates this Grant Agreement in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Grantee will be liable to the State for any excess costs for those supplies or services. However, the Grantee shall continue the work not terminated.
- (5) The State shall pay the grant agreement price for completed supplies delivered and services accepted. The Grantee and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause of this Grant

Agreement. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

- (6) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Grant Agreement.
- B. Termination for Endangering Life, Health, or Safety of Any Person. If the State determines that any breach of this Grant Agreement by the Grantee endangers the life, health, or safety of any person, the State may terminate this Grant Agreement by orally notifying the Grantee of the termination, followed by the mailing of written notification thereof within three (3) business days. Termination pursuant to this paragraph shall become effective at the time of the oral notification.
- C. Termination for Certain Business Changes, Assignments, and Bankruptcy. The Grantee agrees that the State may terminate this Grant Agreement immediately if the Grantee (1) ceases doing business; (2) assigns, transfers or delegates any of its duties and responsibilities for performance of this Grant Agreement to any other person or entity without prior written approval of the State; (3) changes or reorganizes its business in a manner which substantially impairs the ability of the Grantee to perform the services described in this Grant Agreement and its exhibits/attachments; (4) attempts to assign, transfer, convey or encumber this Grant Agreement in any way except as expressly authorized pursuant to the conditions of this Grant Agreement; and/or (5) if an order for relief is entered upon a voluntary or involuntary petition by or against the Grantee under any provision of Title 11, United States Code, and the trustee or debtor-in-possession does not timely assume all obligations of this Grant Agreement to be performed by the Grantee, as provided in 11 U.S.C. § 365, or in the event of appointment of a receiver for the Grantee or execution of an assignment for the benefit of creditors of the Grantee. Any notice of termination pursuant to this paragraph shall be provided in writing to the Grantee.
- D. Termination for Change in Legal Status. The Grantee shall provide written notice to the State of any change in the Grantee's legal name or legal status including, but not limited to, a sale or dissolution of the Grantee's business. The State reserves the right to terminate this Grant Agreement should the Grantee's legal status change in any way. Termination pursuant to this paragraph shall be effective from the date of the change in the Grantee's legal status.
- E. Termination for Additional Reasons Stated in this Grant Agreement. This Grant Agreement is also subject to termination or suspension as stated in any other Section of this Grant Agreement, including, but not limited to, Section 3 (Implementation of and Reporting on the Project); Section 5 (Grant Funding); Section 7 (Project Monitoring by the State); Section 8 (Audits/Monitoring and Maintenance of Records); Section 9 (Compliance with Laws); Section 10 (Drug-Free Workplace Certification); Section 11 (Employment Eligibility Verification); Section 12

(Funding Cancellation); Section 15 (Nondiscrimination); Section 19 (Termination for Convenience); Section 25 (Conflict of Interest); Section 26 (Criminal and Background Checks); Section 33 (Force Majeure); Section 38 (Insurance); Section 39 (Licensing Standards); and Section 46 (Reports and Records Concerning Services).

- F. State Only Liable for Payment for Services Properly Provided Prior to Termination. If this Grant Agreement is terminated for any reason, the State shall only be liable for payment for services properly provided prior to the effective date of termination. The State shall not be liable for any costs incurred by the Grantee in reliance upon this Grant Agreement subsequent to the effective date of termination.

19. Termination for Convenience

Unless prohibited by a statute or regulation relating to the award of the Grant, this Grant Agreement may be terminated, in whole or in part, by the State, which shall include and is not limited to the Indiana Department of Administration and the State Budget Agency, whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Grantee of a termination notice (the "Termination Notice"), specifying the extent to which performance of services under such termination becomes effective. The Grantee shall be compensated for the completion of the Youth Service Bureau Services/Project properly rendered prior to the effective date of termination. The State will not be liable for work on the Youth Service Bureau Services/Project after the effective date of termination. In no case shall total payment made to the Grantee exceed the original Grant Agreement price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that the Indiana Department of Administration ("IDOA") shall be deemed to be a party to this Grant Agreement with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State.

20. Federal and State Third-Party Contract Provisions

If part of this Grant involves the payment of federal funds, the Grantee and, if applicable, its contractors, shall comply with all applicable federal grant/contract provisions.

21. Assignment and Subcontracting

- A. The Grantee shall not assign performance of the whole or any part of this Grant Agreement without the State's prior written consent. However, the Grantee may assign its right to receive payments to such third parties as the Grantee may desire without the prior written consent of the State, provided that the Grantee gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid

amounts under this Grant Agreement and shall not be made to more than one (1) party.

- B. The Grantee shall require any subcontractor approved by the State to comply with the provisions set forth in this Grant Agreement. Further, the Grantee shall remain responsible to the State for the performance of any subcontractor and shall monitor the performance of any subcontractor. The Grantee agrees to enter into written agreements with all subcontractors and to provide copies of all subcontracting agreements to the State upon request.
- C. The Grantee binds its successors and assignees to all terms and conditions of this Grant Agreement. Except as above set forth, the Grantee shall not assign, sublet, or transfer any interest in this Grant Agreement without the prior written consent of the State.

22. Project Budget and Budget Modification

The Grantee shall not spend more than the amount for each line item, as described in the budget the State has approved for this Grant Agreement and/or in **Attachment A**, without the prior written consent of a duly authorized representative of the State, nor shall the Youth Service Bureau Services/Project costs funded by this Grant Agreement and those funded by the local and/or private share be amended without the prior written consent of the State (except as permitted in Section 41 of this Grant Agreement).

23. Authority to Bind Grantee

This Section applies if the Grantee is not an individual. The signatory for the Grantee represents that he/she has been duly authorized to execute this Grant Agreement on behalf of the Grantee named herein. If the Grantee is a corporation, the signatory represents that he/she has obtained all necessary approval from the board of directors of the Grantee and/or the Grantee's home office (if applicable) to execute this Grant Agreement on behalf of the Grantee. If the Grantee is a limited liability company, the signatory represents that he/she is a manager of the company, or, if the company does not provide for a manager or managers, that he/she is a member duly authorized to execute this Grant Agreement on behalf of the company. If the Grantee is a general or limited partnership, the signatory represents that he/she is a general partner of the partnership. The State relies on these representations by the signatory that this Grant Agreement will be fully binding upon the Grantee organization when his/her signature is affixed, upon acceptance of this Grant Agreement by the state of Indiana.

24. Confidentiality

The Grantee understands and agrees that all data, materials, and information, including but not limited to services recipient information, received by the Grantee or its subcontractors in administering the terms and provisions of this Grant Agreement, shall be received and maintained in a confidential manner commensurate with the conditions set forth in this

Grant Agreement and the requirements of all applicable state and federal laws and regulations. The Grantee promises and assures that all data, materials, and information gathered by, or disclosed to, the Grantee or any subcontractor, that includes any personally identifiable information concerning any person, will not be disclosed to others or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by the Grantee for the State under this Grant Agreement may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this Section and pursuant to 10 IAC 5-3-1(4), the Grantee and the State agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the Grantee, the Grantee agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Grant Agreement.

25. Conflict of Interest

A. Paragraphs B through E of this Section apply if the Grantee is an individual, a corporation that issues stock to individuals representing ownership shares of the corporation, a partnership, a limited liability company, or any other form of business organization or association the members or owners of which could receive a personal financial benefit or increase in personal net worth attributable to income or profits received by the organization (exclusive of compensation in the form of salary or wages paid for services rendered to the organization). This Section, other than paragraph F, does not apply if the Grantee is a nonprofit corporation, a school or university that is not organized or operated for the financial benefit or profit of individual owners, or an agency of a political subdivision or other governmental organization.

B. As used in this Section:

"Immediate family" means the spouse and the unemancipated children of an individual.

"Interested party" means:

1. The individual executing this Grant Agreement;
2. An individual who has an interest of three percent (3%) or more of the Grantee, if the Grantee is not an individual; or
3. Any member of the immediate family of an individual specified under subdivision 1 or 2.

"Department" means the Indiana Department of Administration.

"Commission" means the State Ethics Commission.

- C. The Department may cancel this Grant Agreement without recourse by the Grantee if any interested party is an employee of the state of Indiana.
- D. The Department will not exercise its right of cancellation under paragraph C above if the Grantee gives the Department an opinion by the Commission indicating that the existence of this Grant Agreement and the employment by the state of Indiana of the interested party does not violate any statute or rule relating to ethical conduct of state of Indiana employees. The Department may take action, including cancellation of this Grant Agreement, consistent with an opinion of the Commission obtained under this Section.
- E. The Grantee has an affirmative obligation under this Grant Agreement to disclose to the Department when an interested party is or becomes an employee of the state of Indiana. The obligation under this Section extends only to those facts which the Grantee knows or reasonably could know.
- F. The Grantee acknowledges and agrees that no employee, agent, representative, or subcontractor of the Grantee who may be in a position to participate in the decision-making process of the Grantee or its subcontractors may derive an inappropriate personal or financial interest or benefit from any activity funded through this Grant Agreement, either for himself or herself or for those with whom he or she has family or business ties.

26. Criminal and Background Checks

- A. This Section applies to all directors/chief executive officers, facility managers, licensing applicants and other heads of agencies, by whatever title, and each employee or volunteer (which includes interns) who has or will have electronic or physical access to children's records or direct contact with children on a regular and continuing basis or any contact when a child(ren) is/are alone or only with the Provider's staff in connection with performance of any services or activities pursuant to this Grant Agreement ("Covered Personnel"). To the extent applicable, the Grantee (referred to in this Section as Provider) shall conduct all criminal history and background checks required by law, this Grant Agreement, and the applicable DCS' policies, including those implemented by Administrative Letter. All required checks must be completed *prior to* the Grantee submitting this Grant Agreement for State signature. The checks will be conducted in the same manner as required for licensed residential child caring institutions, with respect to IC 31-27-3-3, subsections (e)(1) and (f), and the Provider shall maintain records of information it gathers and receives on Covered Personnel checked pursuant to this Section. The applicable laws and DCS' policies and practices are updated periodically, and the Provider shall comply with those current as of the time the Provider executes this Grant Agreement, adds Covered Personnel, renews this Grant Agreement, or reaches the anniversary date of commencement of a multi-year agreement. Upon request,

DCS will furnish the Provider with information on updates and any changes in policy or procedure. The current procedure requires the Provider to conduct the following checks:

- (1) For those with **direct contact** with children on a regular and continuing basis or any contact when a child(ren) is/are alone or only with the Provider's staff in connection with performance of any services or activities pursuant to this Grant Agreement:
 - (a) *Verify the identity* of all individuals subject to criminal and background checks by viewing a current government issued picture I.D;
 - (b) *Conduct Child Protection Services (CPS) checks* for all states of residency in the past five (5) years (for Indiana, send DCS a Request for Child Protection Services History Check; for other states, *see* DCS' website on child welfare policies and contractor policies for web links to CPS records);
 - (c) *Conduct Sex Offender Registry checks* for all states of residency in the past five (5) years (*see* DCS' website for web links for national and state sex offender registry checks);
 - (d) *Conduct Local Law Enforcement checks with law enforcement agencies that would have responded to each residential address in the last five (5) years;*
 - (e) *Register for Fingerprint-Based National and State Checks through the State approved fingerprint vendor* [To do so, Grantee must confirm that it is listed as a current DCS agency with the current state-approved fingerprint vendor. If not, the Grantee's name will need to be added as a DCS agency prior to registering for fingerprinting.], *and follow through with obtaining fingerprints;* and
 - (f) *Review Results of Criminal and Background Checks* and take appropriate action.

- (2) For those with **only** electronic or physical **access to children's records**:
 - (a) *Verify the identity* of all individuals subject to criminal and background checks by viewing a current government issued picture I.D;
 - (b) *Conduct Child Protection Services (CPS) checks* for all states of residency in the past five (5) years (for Indiana, send DCS a Request for Child Protection Services History Check; for other states, *see* DCS' website on child welfare policies and contractor policies for web links to CPS records);
 - (c) *Conduct Sex Offender Registry checks* for all states of residency in the past five (5) years (*see* DCS' website for web links for national and state sex offender registry checks); and

- (d) *Review Results* of Criminal and Background Checks and take appropriate action.

All directors/chief executive officers, facility managers, and licensing applicants, regardless of their level of contact with children, shall have background checks commensurate with the highest level of background checks required of any other Covered Personnel within their organization. If no other Covered Personnel require background checks and no exception is granted for an administrative grant agreement, they shall have the checks described in this paragraph A(2).

- (3) For all Covered Personnel and Subcontractors:

The Provider shall require Covered Personnel and contractors/subcontractors for this Grant Agreement to immediately notify the Provider of any information about them that would have been revealed by the checks above including substantiation for child abuse or neglect or other similar complaints or charges and of any convictions or arrests. The Provider shall immediately relay such notice to DCS. The Grantee shall further collect from each Covered Personnel an annual attestation regarding whether that individual has any history of such substantiation, arrest or conviction and shall include any previously unreported information to DCS in its annual Certification (such Certification is included in Exhibit 1, which is attached hereto and hereby incorporated by reference).

Except for A(3) above, the required checks must be performed every four (4) years based on the anniversary of the individual Covered Personnel's initial checks.

- B. The Provider shall be responsible for assessing job responsibilities and categorizing Covered Personnel as subject to A(1), A(2), or as not-covered and for performing the appropriate checks. Any Covered Personnel who might serve as a substitute for a covered position, even in emergency circumstances, should undergo the checks required for that covered position.
- C. The Provider shall maintain a record of the results of each check conducted pursuant to this Section. The Provider shall, if requested by the State, provide a copy of that record to DCS or make the record available for inspection by an authorized representative of DCS.
- D. With respect to any current Covered Personnel, the Provider shall submit the form attached hereto as Exhibit 1 (or a similar form as updated by DCS) at the time it submits this Grant Agreement to the State for signature or within thirty (30) days after the effective date of this Grant Agreement, whichever is earlier, and annually upon the anniversary of the effective date of the Grant Agreement. Exhibit 1 will certify that the requirements under paragraph A of this Section have been completed.

The Provider shall furnish any other documentation related to background checks as DCS requests. The Provider has an ongoing obligation to assess job responsibilities and to conduct appropriate checks for employees or volunteers who join the Provider after this Grant Agreement begins. Such staff may **not** provide any services that involve contact with children before the requisite checks have been completed.

- E. In order to allow DCS to evaluate the results and to make determinations regarding qualifications, national fingerprint-based criminal history checks relating to Covered Personnel are required to be conducted through DCS' approved fingerprint vendor in accordance with the terms and conditions stated in IC 10-13-3-38.5, 39. The results of the national fingerprint-based criminal history checks will be returned to DCS as an authorized entity to receive the results. DCS will inform the Provider whether the report it receives concerning the subject of a check shows any record that would be grounds for denial of his/her ability to provide services and/or perform activities pursuant to this Grant Agreement. If any Covered Personnel receive a response of conditionally disqualified or disqualified, further follow up is required. If the result is disqualified, then the individual may be eligible for a waiver. The Provider should contact the DCS' background check unit to determine if the individual is eligible and to apply for the waiver. DCS will not release to the Provider any criminal history record information ("CHRI") contained in any report that it receives from the Federal Bureau of Investigation ("FBI") through the Indiana State Police ("ISP"). If the Provider requests a waiver of criminal history, DCS will inform the Provider of the decision on the waiver request.
- F. In the event a criminal history or background check required herein produces any record concerning the subject of a check that would be a ground for denial of his/her ability to provide services and/or perform activities pursuant to this Grant Agreement and the Provider chooses to retain such employee or volunteer, that decision may be considered a material breach of this Grant Agreement.
- G. The Provider will be responsible for payment of all fees required to be paid for conducting any check required under this Section, whether the check is conducted by the Provider or by DCS. Any fees paid by DCS on behalf of the Provider may be offset against any claim for payment submitted by the Provider under this Grant Agreement.
- H. Upon request, DCS will assist the Provider in clarifying the requirements of this Section.

27. Debarment and Suspension Certification

- A. The Grantee certifies by entering into this Grant Agreement that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Grant Agreement by any federal department or agency or by any department, agency

or political subdivision of the state of Indiana. The term "principal" for purposes of this Grant Agreement means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Grantee.

- B. The Grantee further certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Grant Agreement and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Grantee shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Grant Agreement.

28. Eligibility and Appeals

- A. The parties agree that the eligibility of any individual(s) who may be provided services with funding through this Grant Agreement shall be determined in accordance with state of Indiana service standards, DCS' Service Standards, DCS' policy and any applicable state and federal eligibility criteria and operating procedures.
- B. The State and the Grantee agree to maintain procedures and records in accordance with any applicable state and federal policies and regulations and to promptly address complaints and appeals between the parties and those of applicants for and recipients of services. Both parties agree to cooperate with the processing of any complaint or appeal.

29. Entire Agreement

This Grant Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and all prior agreements, representations, statements, negotiations, and undertakings are hereby superseded. No understandings, agreements, or representations, oral or written, not specified in this Grant Agreement will be valid provisions of this Grant Agreement. Except in accordance with Section 41, this Grant Agreement shall not be modified, supplemented, or amended in any manner.

30. Environmental Tobacco Smoke

The Grantee agrees to comply with all provisions of 20 U.S.C. 6081 *et seq.*, and any regulations promulgated thereunder. In particular, the Grantee agrees that it will require that smoking be prohibited in any portion of an indoor facility, other than a private residence, regularly used for the provision of health, day care, education or library services to children under the age of eighteen (18) and that it will comply with all applicable requirements of the statute and regulations. The Grantee further agrees that it will require the language of this

condition to be included in any subcontracts which contain provisions for services to children.

31. Fees

With the exception of Teen Court (which is described in the currently applicable DCS' Service Standards), the Grantee and its contractors/subcontractors shall impose no fees upon the recipients of any services provided through this Grant Agreement except as explicitly authorized by the State.

32. Program Income

Any program income earned by the Grantee from activities conducted with funds obtained through this Grant Agreement must be maintained and expended by the Grantee in the program from which the funding was derived, in accordance with applicable state and/or federal program rules, regulations, and policies. The Grantee must maintain and provide to the State an accounting of all program income earned as a result of funds being provided through this Grant Agreement.

33. Force Majeure

In the event that either party is unable to perform any of its obligations under this Grant Agreement or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Grant Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Grant Agreement.

34. Funding Limitations

It is understood and agreed by the parties that all obligations of the State are contingent upon the availability of sufficient funds appropriated or available to the Youth Service Bureau Fund or Youth Service Bureau grant account as provided in IC § 31-26-1-4, and in no event shall the State be liable for any payments in excess of amounts available to that fund/grant account.

35. HIPAA Compliance

A. This Section applies only to the extent that the Grantee receives any protected health information ("PHI"), as referenced in paragraph B below, or any alcohol and drug abuse records (as defined in IC 16-18-2-12), health records (as defined in IC 16-18-2-168), or mental health records (as defined in IC 16-18-2-226), concerning any individual, in connection with performance of any services under this Grant

Agreement. Any records included in the above definitions in IC 16-18-2 are referred to herein as "Health Records."

- B. HIPAA. The Grantee agrees to comply with all applicable requirements of the Health Insurance Portability and Accountability Act of 1996, Title II, Administrative Simplification ("HIPAA"), including amendments signed into law under the American Recovery and Reinvestment Act of 2009 ("ARRA"), in particular, applicable provisions of Title XIII known as the Health Information Technology for Economic and Clinical Health Act ("HITECH"), Subtitle D, in all activities related to this Grant Agreement, to maintain compliance during the term of this Grant Agreement and after as may be required by federal law, to operate any systems used to fulfill the requirements of this Grant Agreement in full compliance with all applicable provisions of HIPAA and to take no action which adversely affects the State's HIPAA compliance.

Terms used, but not otherwise defined, in this Grant Agreement shall have the same meaning as those found in the HIPAA Regulations under 45 CFR Parts 160, 162, and 164.

To the extent required by the provisions of HIPAA and regulations promulgated thereunder, the Grantee assures that it will appropriately safeguard all forms of Health Records and/or Protected Health Information (PHI), as defined by the regulations, which is made available to or obtained by the Grantee in the course of its work under this Grant Agreement. The Grantee agrees to comply with all applicable requirements of law relating to Health Records and/or PHI with respect to any task or other activity it performs for the State including, as required by the final Privacy and Security regulations:

- (1) Implementing the following HIPAA requirements for any forms of Health Records and/or PHI that the Grantee receives, maintains, or transmits on behalf of the State:
 - (a) Administrative safeguards under 45 CFR § 164.308
 - (b) Physical safeguards under 45 CFR § 164.310
 - (c) Technical safeguards under 45 CFR § 164.312
 - (d) Policies and procedures and documentation requirements under 45 CFR § 164.316;
- (2) Implementing a disaster recovery plan, as appropriate for work conducted for this Grant Agreement, which includes mechanisms to recover data and/or alternative data storage sites, as determined by the State to be necessary to uphold integral business functions in the event of an unforeseen disaster;
- (3) Not using or further disclosing Health Records and/or PHI other than as permitted or required by this Grant Agreement or by applicable law;

- (4) Immediately reporting to DCS' HIPAA Compliance Office any security and/or privacy breach directly relating to the work performed for this Grant Agreement of which the Grantee becomes aware;
- (5) Mitigating, to the extent practicable, any harmful effect that is known to the Grantee and immediately reporting to DCS' HIPAA Compliance Office any use or disclosure by the Grantee, its agent, employees, subcontractors or third parties, of Health Records and/or PHI obtained under this Grant Agreement in a manner not provided for by this Grant Agreement or by applicable law of which the Grantee becomes aware;
- (6) Ensuring that any subcontractors or agents to whom the Grantee provides Health Records and/or PHI received from, or created or received by the Grantee, subcontractors or agents on behalf of the State agree to the same restrictions, conditions and obligations applicable to such party regarding Health Records and/or PHI and agree to implement the required safeguards to protect it;
- (7) Making the Grantee's internal practices, books and records related to the use or disclosure of Health Records and/or PHI received from, or created or received by the Grantee on behalf of the State available to the State at its request or to the Secretary of the United States Department of Health and Human Services ("DHHS") for purposes of determining the State's compliance with applicable law. The Grantee shall immediately notify DCS' HIPAA Compliance Office upon receipt by the Grantee of any such request from the Secretary of DHHS or designee, and shall provide DCS' HIPAA Compliance Office with copies of any materials made available in response to such a request;
- (8) In accordance with procedures established by the State, making available the information required to provide an accounting of disclosures pursuant to applicable law, if the duties of the Grantee include disclosures that must be accounted for;
- (9) Making available Health Records and/or PHI for amendment and incorporating any amendments to Health Records and/or PHI in accordance with 45 CFR § 164.526, if the Grantee maintains Health Records and/or PHI subject to amendment;
- (10) Make Health Records and/or PHI available to individuals entitled to access and requesting access in compliance with 45 CFR § 164.524 and the duties of the Grantee;
- (11) At the discretion of the State, authorizing termination of the Grant Agreement if the Grantee has violated a material provision of this Section; and

(12) At the termination of the Grant Agreement, the Grantee shall return or destroy all Health Records and/or PHI received or created under the Grant Agreement. If the State determines return or destruction is not feasible, the protections in this Grant Agreement shall continue to be extended to any Health Records and/or PHI maintained by the Grantee for as long as it is maintained.

C. Drug and Alcohol Patient Abuse Records. In the performance of the services listed in this Grant Agreement, the Grantee may have access to confidential information concerning the disclosure and use of alcohol and drug abuse patient records. The Grantee understands and agrees that data, materials and information disclosed to the Grantee may contain confidential and protected data, including confidential individual information concerning alcohol and drug abuse patient records. Therefore, the Grantee promises and assures that any such confidential data, material, and information gathered or disclosed to the Grantee for the purposes of this Grant Agreement and specifically identified as Confidential Information will not be disclosed or discussed with others without the prior written consent of the State. The Grantee and the State shall comply with applicable requirements under 42 CFR Part 2 and any other applicable federal or state statutory or regulatory requirements. The Grantee shall immediately report any unauthorized disclosures of these records to DCS' HIPAA Compliance Office.

36. Indemnification

The Grantee agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all claims and suits including court costs, attorneys' fees, and other expenses caused by any act or omission of the Grantee and/or its subcontractors, if any, in the performance of this Grant Agreement. The State shall **not** provide such indemnification to the Grantee.

37. Independent Contractor

A. Both parties hereto, in the performance of this Grant Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or any damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

B. The Grantee shall be responsible for providing all necessary unemployment and worker's compensation insurance for the Grantee's employees.

C. The Grantee certifies and agrees that the services the Grantee provides under this Grant Agreement will be performed in accordance with the following guidelines:

- (1) **Behavioral control** - The Grantee will be responsible to direct and control its staff with respect to how to carry out its duties under this Grant Agreement including:
 - (a) monitoring or providing training on how to perform services and
 - (b) instructions on:
 - when and where to do the work;
 - what tools or equipment to use;
 - what workers to hire or to assist with the work;
 - where to purchase supplies and services;
 - what work must be performed by a specified individual; and
 - what order or sequence to follow.
- (2) **Financial control** - In carrying out its duties hereunder, the Grantee will be responsible for:
 - (a) all business expenses incurred;
 - (b) any facilities or equipment it requires;
 - (c) managing its resources to meet obligations to the State and any other parties;
 - (d) all employment or contract issues with its staff; and
 - (e) managing any fluctuations in the cost of providing services.
- (3) **Type of relationship** - The Grantee's relationship with the State:
 - (a) is controlled by this Grant Agreement;
 - (b) includes no benefits other than the consideration paid for services rendered;
 - (c) includes no promise of future agreements; and
 - (d) addresses only one aspect of the State's overall mission.

38. Insurance

A. The Grantee shall secure and keep in force during the term of this Grant Agreement the following insurance coverage, covering the Grantee for any and all claims of any nature which may in any manner arise out of or result from the Grantee's performance under this Grant Agreement:

- (1) Commercial general liability, including contractual coverage and errors and omissions coverage for professional conduct, and products or completed operations coverage (if applicable), with minimum liability limits of \$2,000,000 in the aggregate unless additional coverage is required by the State.

- (2) Automobile liability with minimum liability limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
 - (3) The Grantee shall also secure insurance in amounts sufficient to reimburse the State for damage to any property purchased with state and/or federal funds.
 - (4) The Grantee shall provide proof of such insurance coverage by tendering to the State representative listed in Section 16(A)(1) [Notice to Parties] a certificate of insurance prior to the commencement of this Grant Agreement and proof of workers' compensation coverage meeting all statutory requirements of IC 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the state of Indiana is required if any of the services provided under this Grant Agreement involve work outside of Indiana.
- B. The Grantee's insurance coverage must meet the following additional requirements:
- (1) The insurer must have a certificate of authority issued by the Indiana Department of Insurance.
 - (2) Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Grantee.
 - (3) The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Grantee in excess of the minimum requirements set forth above. The duty to indemnify the State under this Grant Agreement shall not be limited by the insurance required in this Grant Agreement.
 - (4) The insurance required in this Grant Agreement, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
- C. Failure to provide insurance as required in this Grant Agreement may be deemed a material breach of contract entitling the State to immediately terminate this Grant Agreement. The Grantee shall furnish a certificate of insurance and all endorsements to the State representative listed in Section 16(A)(1) [Notice to Parties] before commencement of this Grant Agreement.

39. Licensing Standards

- A. The Grantee, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Grantee pursuant to

this Grant Agreement. The State will not pay or reimburse the Grantee for any services performed when the Grantee, its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification or accreditation, the Grantee shall notify the State immediately and the State, at its option, may terminate this Grant Agreement.

- B. If the required license of any of the Grantee's employees or subcontractors expires or is revoked, the Grantee will immediately prohibit such employee or subcontractor from providing any services that are subject to this Grant Agreement, unless the employee or subcontractor is granted a provisional license or is otherwise authorized to continue to provide services. The State may, at its option, terminate this Grant Agreement if the Grantee fails to comply with this requirement.

40. Lobbying Activities

- A. Pursuant to 31 U.S.C. § 1352, and any regulations promulgated thereunder, the Grantee hereby assures and certifies, to the best of its knowledge and belief, that no federally appropriated funds have been paid, or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan or cooperative agreement.
- B. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Grant Agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying". If the Grantee is required to submit Standard Form-LLL, the form and instructions for preparation of the form may be obtained from the State.
- C. The Grantee shall require that the language of this certification be included in the award document for subawards at all tiers (including subcontracts, subgrants, and agreements under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- D. The foregoing certification is a material representation of fact upon which reliance was or will be placed when entering into this Grant Agreement and any transactions with the State. Submission of this certification is a prerequisite for making or entering into any transaction as imposed by 31 U.S.C. § 1352. Any

person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

41. Modification

- A. Except as otherwise set forth in this Section below, this Grant Agreement constitutes the entire agreement between the parties and no understandings, agreements, or representations, oral or written, not specified within this Grant Agreement will be valid provisions of this Grant Agreement.
- B. The parties agree that due to the uncertain availability of state and/or federally allocated funds and/or the possibility of the need for a reduction in the services provided by the Grantee pursuant to this Grant Agreement, the "Total Dollar Amount" specified in Section 5(B) and in **Attachment A** and/or the award for any fiscal year period specified in Section 5(B) and in **Attachment A** of this Grant Agreement may be unilaterally decreased by the State immediately upon the Grantee's receipt of written notice. Such notice shall be delivered to the Grantee at the address specified in Section 16 of this Grant Agreement via both first-class U.S. mail and e-mail. This paragraph does not affect any right of the Grantee to payment for services performed before receipt of such written notice.
- C. The Grantee shall notify the State within ten (10) days of any termination of services reimbursable pursuant to this Grant Agreement. In the event of such termination, the State may reduce the funding to the Grantee set forth herein and in **Attachment A** in accordance with the procedures specified in paragraph F below in this Section. Notice shall be delivered to the Grantee at the address specified in Section 16 of this Grant Agreement via both first-class U.S. mail and e-mail. This paragraph does not affect any right of the Grantee to payment for services performed before receipt of such written notice.
- D. The State may conduct periodic reviews of the anticipated utilization of funds provided by the State pursuant to this Grant Agreement and/or periodic reviews of the county or counties for which the Grantee has been chosen to provide the Youth Service Bureau Services/Project as set forth in the notification received by the Grantee from the State and as set forth above in Section 3(A)(4). After such a review(s), the State may decide to reduce, redistribute, or increase the funding available to the Grantee and/or adjust/revise the county or counties for which the Grantee has been chosen to provide the Youth Service Bureau Services/Project. The State shall give ten (10) calendar days notice of its decision to reduce, redistribute, or increase the funding available to the Grantee and/or of its decision to adjust/revise the county or counties for which the Grantee has been chosen to provide the Youth Service Bureau Services/Project, which notice shall include a statement of the reasons for such modification and include, if applicable, an updated **Attachment A** reflecting such change.

- E. Should the State (on its own or after it considers a request of the Grantee) determine that any billable unit, payment point, service code, or service component requires modification and such modification requires a revision to the information included in **Attachment A**, such changes shall not require the execution of a formal amendment to this Grant Agreement, but may be accomplished by written notice from the State to the Grantee with an accompanying updated **Attachment A**.
- F. The modifications described above in paragraphs B, C, D, and E of this Section, even if such modifications require creation of a revised **Attachment A**, may be accomplished by letter of notification from the State to the Grantee (with any requisite revised **Attachment A** attached thereto), without the necessity for a formal grant agreement amendment.
- G. With the exception of the modification procedures permitted pursuant to paragraphs B, C, D, E, and F of this Section, this Grant Agreement may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties. Nothing herein shall be construed as a commitment to execute future agreements with the Grantee or to extend this Grant Agreement in any way.

42. Renewal

As permitted by the state or federal law governing this Grant, this Grant Agreement may be renewed under the same terms and conditions subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC § 5-22-17-4. The term of each renewal may not be longer than the term of the original Grant Agreement.

43. Ownership and Use of Documents and Materials

- A. All documents, records, programs, data, film, tape, articles, memoranda, and other materials developed under this Grant Agreement shall be considered "work for hire" and the Grantee transfers any ownership claim to the State and all such materials will be the property of the State. Use of these materials, other than related to performance by the Grantee of the services described in this Grant Agreement and its attachments/exhibits, without the prior written consent of the State, is prohibited. The Grantee specifically releases to the State any property right which the Grantee may have to copyright, license, patent or otherwise dispose of data, findings, recommendations, or other work product of this Grant Agreement. The Grantee shall provide the State full, immediate, and unrestricted access to the work product during the term of this Grant Agreement and as necessary thereafter.
- B. The Grantee shall grant the State shared access to all documents, including child files, records, programs, data, film, tape, articles, memoranda, and other materials related to this Grant Agreement. The Grantee shall provide the State full,

immediate, and unrestricted access to such documents and materials during the terms of this Grant Agreement and as necessary thereafter.

- C. During the performance of this Grant Agreement, the Grantee shall be responsible for any loss or damage to any of the above-referenced materials developed for or supplied by the State and/or used to develop or assist in the services provided while the materials are in the possession of the Grantee. Any loss or damage thereto shall be restored at the Grantee's expense. The Grantee shall also be responsible for preserving and protecting the ownership and property rights of the State in all work in progress and other property to which the State is entitled hereunder, while the property is in the control or custody of the Grantee.

44. Penalties/Interest/Attorneys' Fees

The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorneys' fees, except as permitted by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

45. Program Income

Any program income earned by the Grantee from activities conducted through this Grant Agreement must be maintained and expended by the Grantee in accordance with applicable state regulations and policies. The Grantee must maintain and provide to the State an accounting of all program income earned as a result of and during the term of this Grant Agreement. Interest on program income, rebates, credits, discounts, and refunds earned by the Grantee on funds provided pursuant to this Grant Agreement must be maintained and reported by the Grantee in accordance with state regulations and policies. The Grantee must maintain and provide to the State, at the time the Grantee submits its final invoice for payment under this Grant Agreement, an accounting of all program income, interest, rebates, credits, discounts, or refunds earned through use of funds provided hereunder.

46. Reports and Records Concerning Services

- A. As set forth above in Section 3(E), the Grantee must comply with all of the reporting requirements specified in the currently applicable DCS' Service Standards.
- B. Upon the State's request and in a form provided by the State, the Grantee shall also submit final "Grant Closeout Reports" detailing the use of the funds provided under this Grant Agreement. The Grant Closeout Report(s) must include an accounting for all receipts, disbursements and accrued expenses chargeable to the Youth Service Bureau Services/Project, including both funds provided by the State and funds

- provided or to be provided from other sources. The Grant Closeout Report(s) should include the amount of actual expenditures by billable units/payment points/service components outlined in the budget the State has approved for this Grant Agreement and/or in **Attachment A**. The Grant Closeout Report(s) should include a description and summary of all services provided, stated objectives accomplished, and indicators of progress made toward achievement of outcomes specified in this Grant Agreement (including all of its attachments and links to relevant website information).
- C. The Grantee shall cooperate with the State in any utilization review and shall, if requested, conduct or submit to any audit(s) requested by the State in addition to the audit following expiration or termination of this Grant Agreement required under Section 8 of this Grant Agreement.
 - D. Prompt compliance by the Grantee with a request by the State to submit Youth Service Bureau Services/Project documentation and financial documentation during the term of this Grant Agreement is critical to this Grant Agreement. A failure of the Grantee to comply with any such request could result in immediate suspension of payments hereunder or termination of this Grant Agreement by the State.
 - E. In the event the contents of any Grant Closeout Report is considered deficient by the State, the State will so notify the Grantee in writing, not later than thirty (30) days after receipt of the Grant Closeout Report. The notice will specify the nature of the deficiency and the corrective action or information needed. The Grantee shall submit to the State any revised or supplemental Grant Closeout Report within thirty (30) days after the date of the deficiency notice.
 - F. The Grantee will timely provide to the State all reports and other information needed or requested by the State for purposes of preparation and completion of each report and/or evaluation.
 - G. The Grantee shall maintain records as necessary or appropriate to document services provided pursuant to this Grant Agreement. Those records shall include, but not be limited to, documentation relating to, or the time and place of meeting with, persons served by the Grantee and the persons who attended those meetings and copies of any reports or other materials representing the work product of any services for which funds are provided to the Grantee under this Grant Agreement.
- 47. Registration to Provide Services in Indiana**
- A. If the Grantee is a corporation, limited partnership, or limited liability company, the Grantee represents and certifies that it has filed all documents required by law with the Secretary of State of Indiana and that the Grantee is, and will continue to be, authorized to do business in Indiana during the entire term of this Grant Agreement. The Grantee further represents and certifies that it will file any annual report that

becomes due during the term of this Grant Agreement, and will at all times remain in good standing with the Secretary of State of Indiana.

- B. If the Grantee is using an assumed business name that is different from its legal name, in relation to any business conducted or services provided in Indiana, the Grantee represents and certifies that the Grantee has filed with the county recorder of each county in which the Grantee maintains an office or place of business an assumed name certificate, and, if the Grantee is a corporation, limited liability company, or limited partnership, that a copy of the certificate has been filed with the Secretary of State of Indiana, in accordance with all requirements of IC § 23-15-1 *et seq.*
- C. Any breach or failure to comply with the provisions of this Section, or any other provision of applicable law relating to maintenance of good standing of Grantee's legal authority to conduct business in Indiana in relation to the services provided under this Grant Agreement, shall be cause for immediate termination of this Grant Agreement.

48. Religious or Political Activities

- A. The State and the Grantee agree that services provided with funding obtained through this Grant Agreement shall be non-sectarian in nature and that religious activities shall not be included in any activities to be conducted hereunder. The Grantee agrees that, if it otherwise conducts religious activities as part of its organization, any inherently religious activities must be offered separately, in time or location, from the programs or services funded with direct federal financial assistance and participation must be voluntary for beneficiaries of the programs or services funded with such assistance.
- B. The Grantee certifies that the funding provided by the State through this Grant Agreement shall not be used to further any type of political or voter activity.

49. Buy American

The State and the Grantee agree that, to the greatest extent practicable, all equipment and products purchased with funds made available through this Grant Agreement shall be American-made.

50. Severability

The invalidity of any Section, subsection, clause or provision of this Grant Agreement shall not affect the validity of the remaining Sections, subsections, clauses or provisions of this Grant Agreement.

51. Successors and Assignees

The Grantee binds its successors, executors, administrators, and assignees to all covenants of this Grant Agreement. Except as set forth above herein, the Grantee shall not assign, sublet or transfer any interest in this Grant Agreement without the prior written consent of the State.

52. Taxes

The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Grantee as a result of this Grant Agreement.

53. Delivery of Documents, Files, Data, Studies or Reports to the State Upon Termination or Expiration of this Grant Agreement

Upon expiration or termination of this Grant Agreement, all documents, files, data, studies or reports prepared by the Grantee or any subcontractor pursuant to this Grant Agreement, and any supplies purchased by the Grantee or any subcontractor with funds received through this Grant Agreement, shall be delivered to the State. The State may require the transfer of records, documents or supplies to its own offices or to a designated successor.

54. Travel

The only expenses for travel that will be reimbursed are travel expenses that are included in the Grantee's approved budget and that are incurred within the scope of the Grantee's services as described in the currently applicable DCS' Service Standards and in Section 3 of this Grant Agreement (including all of its attachments and links to relevant website information). If properly invoiced for as set forth in Section 5 and Section 6, such expenditures made by the Grantee for travel will be reimbursed at the current rate paid by the State and in accordance with State Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines.

55. Disputes

- A. Should any disputes arise with respect to this Grant Agreement, the Grantee and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The Grantee agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Grant Agreement that are not affected by the dispute. Should the Grantee fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Grantee as a result of such failure to proceed shall be borne by the Grantee, and the Grantee shall make no claim against the State for such costs.

- C. If a party to the Grant Agreement is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party shall submit the dispute in writing according to the following procedure:

The parties agree to resolve such matters through submission in writing of their dispute to the Commissioner of IDOA. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Grantee and the State within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one (1) of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.

- D. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Grantee of one (1) or more invoices not in dispute in accordance with the terms of this Grant Agreement will not be cause for the Grantee to terminate this Grant Agreement, and the Grantee may bring suit to collect these amounts without following the disputes procedure contained herein.

56. Remedies Not Impaired

No delay or omission of the State in exercising any right or remedy under this Grant Agreement shall impair any such right or remedy, or constitute a waiver of any default or any acquiescence thereto.

57. Waiver of Rights

No right conferred on either party under this Grant Agreement shall be deemed waived and no breach of this Grant Agreement excused, unless such waiver or excuse is in writing and signed by the party claimed to have waived such right.

58. Public Record

The Grantee acknowledges that the State will not treat this Grant Agreement as containing confidential information, and will post this Grant Agreement on its website as required by Executive Order 05-07. Use by the public of the information contained in this Grant Agreement shall not be considered an act of the State.

59. State Boilerplate Affirmation Clause

I swear or affirm under the penalties of perjury that I have not altered, modified or changed the State's Boilerplate clauses (as defined in the 2012 OAG/IDOA *Professional Services Contract Manual*) in any way except for the following clauses which are named below:

- Section 1. Purpose of this Grant Agreement; Grant Funds – modified;
- Section 3. Implementation of and Reporting on the Project - modified;
- Section 4. Term – modified;
- Section 5. Grant Funding – modified;
- Section 6. Payment of Claims and Fiscal Requirements – modified;
- Section 7. Project Monitoring by the State – modified;
- Section 8. Audits/Monitoring and Maintenance of Records – modified;
- Section 9. Compliance with Laws – modified;
- Section 11. Employment Eligibility Verification – modified;
- Section 15. Nondiscrimination – modified;
- Section 16. Notice to Parties – modified;
- Section 17. Order of Precedence – modified;
- Section 18. Termination for Breach and Termination or Suspension for Additional Reasons – modified;
- Section 19. Termination for Convenience – modified;
- Section 20. Federal and State Third-Party Contract Provisions – modified;
- Section 21. Assignment and Subcontracting – added;
- Section 22. Project Budget and Budget Modification – added;
- Section 23. Authority to Bind Grantee – added;
- Section 24. Confidentiality – added;
- Section 25. Conflict of Interest – added;
- Section 26. Criminal and Background Checks – added;
- Section 27. Debarment and Suspension Certification – added;
- Section 28. Eligibility and Appeals – added;
- Section 29. Entire Agreement – added;
- Section 30. Environmental Tobacco Smoke – added;
- Section 31. Fees – added;
- Section 32. Program Income – added;
- Section 33. Force Majeure – added;
- Section 34. Funding Limitations – added;
- Section 35. HIPAA Compliance – added;
- Section 36. Indemnification – added;
- Section 37. Independent Contractor – added;

Section 38. Insurance – added;
Section 39. Licensing Standards – added;
Section 40. Lobbying Activities – added;
Section 41. Modification – added;
Section 42. Renewal – added;
Section 43. Ownership and Use of Documents and Materials – added;
Section 44. Penalties/Interest/Attorneys' Fees – added;
Section 45. Program Income – added;
Section 46. Reports and Records Concerning Services – added;
Section 47. Registration to Provide Services in Indiana – added;
Section 48. Religious or Political Activities – added;
Section 49. Buy American – added;
Section 50. Severability - added;
Section 51. Successors and Assignees - added;
Section 52. Taxes - added;
Section 53. Delivery of Documents, Files, Data, Studies or Reports to the State Upon Termination or Expiration of this Grant Agreement - added;
Section 54. Travel - added;
Section 55. Disputes - added;
Section 56. Remedies Not Impaired - added;
Section 57. Waiver of Rights – added; and
Section 58. Public Record – added.

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK

SIGNATURE PAGE
EDS# _____

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Grantee, or that the undersigned is the properly authorized representative, agent, member or officer of the Grantee. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Grantee, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Grant Agreement other than that which appears upon the face hereof.

In Witness Whereof, the Grantee and the State have, through their duly authorized representatives, entered into this Grant Agreement. The parties, having read and understood the foregoing terms of this Grant Agreement, do by their respective signatures dated below hereby agree to the terms hereof.

Grantee: _____

By: _____
Printed Name: _____
Title: _____
Date: _____

Indiana Department of Child Services

By: _____
James W. Payne, Director

Date: _____

Indiana Department of Administration

By: _____ (for)
Robert D. Wynkoop, Commissioner

Date: _____

State Budget Agency

By: _____ (for)
Adam M. Horst, Director

Date: _____

**APPROVED as to Form and Legality:
Office of the Attorney General**

By: _____ (for)
Gregory F. Zoeller, Attorney General

Date: _____