

**PLEASE NOTE: ALL PROPOSALS MUST INCLUDE SIGNED
AFFIDAVITS FOUND IN EXHIBITS E and F**

REQUEST FOR PROPOSALS

Issuing Agency: State of Connecticut Insurance Department
153 Market Street, 7th Floor
P.O. Box 816
Hartford, CT 06142-0816

Title: REQUEST FOR PROPOSALS

Selection of External Appeals Entities to Review
Appeals of Utilization Review Determinations

Proposals, subject to the conditions made part hereof, must be received **no later than August 24, 2007.**

**SEND ALL PROPOSALS DIRECTLY TO THE STATE OF CONNECTICUT INSURANCE
DEPARTMENT, ATTN: LIFE & HEALTH DIVISION**

MAILING ADDRESS: P.O. Box 816, Hartford, CT 06142-0816

OFFICE ADDRESS: 153 Market Street, 7th Floor
Hartford, CT 06103

OFFICE ADDRESS must be used for all express or special delivery mail or for hand delivery of any documents.

Request for Proposal Date: June 29, 2007
Proposals to be opened: August 24, 2007
Vendor Presentations (if any) September 19, 2007
Contract(s) to be awarded no later than: October 17, 2007
Contractor(s) to begin external appeals process: January 1, 2008

NOTE: With regard to a State contract as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this submission in response to the State's solicitation expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising prospective state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See Exhibit G [SEEC Form 11].

The attached external appeals regulation (Appendix A) has been adopted, effective December 24, 1997. This regulation was amended in August, 2004 to include retrospective claim denials based on medical necessity to be eligible for external review. A regulation regarding utilization review (Appendix B) has been adopted, effective September 1, 1999, and amended, effective August 20, 2004. We call your attention to section 38a-226c-4(c), which impacts the external appeals process. In addition, please refer to Appendix C - §38a-483c and §38a-513b. These statutes outline specific criteria which may be taken into account by the external appeals entity when reviewing adverse determinations based on experimental or investigational treatments.

Background

§38a-478n of the Connecticut General Statutes provides for an appeal to the Connecticut Insurance Commissioner of adverse utilization review determinations and retrospective claim denials based on medical necessity by managed care organizations and utilization review companies concerning admissions, services, medical procedures and length of stays for plan enrollees who have exhausted the managed care organization's or utilization review company's internal appeals procedures. The law requires the Insurance Commissioner to engage impartial health entities to provide medical review for appeals. The Commissioner must accept the decision of the external entity and the Commissioner's decision will be binding. Such entities shall include (1) medical peer review organizations, (2) independent utilization review companies, provided such companies are not related to or associated with any managed care organization and (3) nationally recognized health experts or institutions approved by the commissioner.

In addition, the Insurance Department has entered into a Memorandum of Understanding with the Connecticut Department of Social Services to administer this external review process to enrollees in Connecticut's HUSKY B managed care program.

The Department is issuing this Request for Proposal (RFP) for the selection of External Appeals Entities (EAE) to provide independent and objective reviews of managed care organization and utilization review company's internal appeal decisions.

The Department reserves the right to approve any number of entities for designation as External Appeals Entities through the RFP process. Services will be provided in accordance with an agreement for external appeals services between the Commissioner and a designated EAE.

Once the designation process is completed through this RFP, the Department reserves the right to:

1. Terminate a designation as an EAE without cause following a ninety (90) day written notice.
2. Terminate a designation as an EAE immediately if the Commissioner determines that the continuation of an existing designation may result in unfair, biased or unreliable determinations which pose a threat to public health.
3. Require an EAE to alter activities to be consistent with regulatory changes as they may occur.
4. Deny any assignment of an appeal if the Commissioner determines that such an assignment would result in a conflict of interest or would otherwise create the appearance of impropriety.
5. Deny any assignment of an appeal until an EAE has executed an agreement for external appeals services.
6. Revoke any assignment of an appeal if the Commissioner determines that such assignment has or is likely to result in a conflict of interest, excessive time delay or has otherwise created an appearance of impropriety. In such a case, the Commissioner will reassign the appeal.

Rejection of Proposal

The Department reserves the right to reject any or all bids if deemed to be in the best interest of the state to do so. The Department shall have authority to award contracts to vendors who offer acceptable

proposals to the state, cost and other factors considered. Proposals from vendors which are related to, or associated with, a managed care organization will not be considered.

Cost Liability

The State of Connecticut assumes no responsibility and no liability for costs incurred by vendors prior to issuance of a contract.

Response Date

In order to be considered for selection, proposals must arrive at the Department on or before the date specified. Bidders should allow for delivery time to ensure timely receipt of their proposals by the Department. Late proposals will not be considered.

Instructions to Bidders

Vendors who are furnished a copy of this RFP and intend to make a proposal are requested to submit a letter of intent by August 7, 2007. Those not intending to make a proposal are asked to submit a negative reply.

Questions

Questions regarding this RFP must be submitted in writing by August 10, 2007. All vendors that submitted a letter of intent will receive copies of all written questions and answers regarding the RFP. Questions should be directed to:

Patricia Levesque
Program Manager
Connecticut Insurance Department
P.O. Box 816
Hartford, CT 06142-0816

Bidders' Proposals

In order to be considered for selection, vendors must submit a complete response to this RFP. One original and 5 copies of each proposal must be submitted to the Insurance Department. No other distribution of the proposals shall be made by the bidder.

The complete application package shall consist of a proposal that includes the following information:

1. **Signed and notarized affidavits regarding gifts to state employees and conflicts of interest. These affidavits may be found in Exhibits E and F at the end of this RFP.**
2. Identifiable and specific responses to each of the particular criteria set forth in this RFP;
3. A flow chart depicting the process by which external review will proceed from the time of preliminary review to the final decision, including maximum time required to complete each phase;
4. A statement certifying that all information included in the proposal and submitted is accurate to the best of the applicant's knowledge and belief. The statement must be signed by the applicant's chief executive officer or an individual authorized to act in such capacity for the applicant;
5. Consecutive page numbering for easy reference and identification of sections included.

Acceptance of Proposal Content

The contents of the proposal of any successful bidder will become a part of any contract awarded as a result of these specifications.

Term of Contract

The contract(s) for services will be for a period of two (2) years, beginning January 1, 2008.

Oral Presentation

Bidders who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the Department. The purpose of such presentation is to provide an opportunity for the vendor to clarify or elaborate on its proposal. Original submissions cannot be supplemented, changed or corrected in any way except as necessitated by a change in the proposed regulation. No comments regarding other bidders or proposals are permitted, and bidders may not attend presentations by their competitors.

Bidders must clearly understand that it is the Department's sole option to determine which bidders, if any, will be invited to make an oral presentation. Bidders shall not construe the list of vendors invited, if any, to imply acceptance or rejection of any bid(s). The Department will schedule the time and location of any such presentation.

Price Changes

All prices when established and agreed upon shall be firm and not subject to increase during the period of the contract.

Insurance Department Commitment

- Upon receipt of a request for an external appeal, the Department shall assign that appeal to one of the selected entities. The Commissioner reserves the right to deny any assignment to any EAE if, in his determination, such an assignment would result in a conflict of interest or would otherwise create an appearance of impropriety.
- The Department shall use its best efforts to inform EAEs of legislative and regulatory changes affecting the external appeals process in Connecticut.

Proposal Format and Content

All instructions, terms and conditions contained in the proposal must be met in order to qualify for consideration of award. Those proposals which do not meet those conditions will be considered non-responsive.

The proposal must be submitted in three, easily identifiable sections as follows:

- ***Section 1 - Technical Proposal***

This section shall describe the bidder's approach and plans for accomplishing the appeals process described in the regulation. These plans and approaches should be described in sufficient detail to permit the Department to evaluate them fairly and with a minimum of possible misinterpretation. Further, the bidder should describe the effort and skills necessary to complete the project.

- ***Section 2 - Cost Proposal***

This section shall contain all information related to costs.

- ***Section 3 - Organizational Support and Experience***

This section shall contain all pertinent information relating to bidder's organization, personnel and experience that would substantiate its qualifications and capabilities to perform the services required by the scope of the RFP.

Section 1 Technical Proposal

This section of the proposal shall contain at least the following information:

1. A brief introduction outlining the bidder's overall technical approach to complete the total project and illustrating an understanding of the external appeals process that is to be implemented.
2. A description of how the work will be accomplished within each step of activity. Simple statements that a task will be completed, or a reiteration of the RFP tasks are not acceptable. Explain the process to be employed in reviewing an appealed utilization review determination, from preliminary review to the final decision. This explanation should include a description of the scope of services, the criteria to be used in the decision-making process, and the systems and methods used to process case reviews including:
 - Method of providing a decision in the mandated amount of time;
 - Method for selecting and assigning reviewers to cases including the recruitment, credentialing and assignment of appropriate specialist to cases;
 - Method for communication with parties involved in the appeal process;
 - System and method of rendering written decisions and the basis for the decisions;
3. A summary of the problems which the bidder might reasonably expect and its solution to those anticipated problems should be provided.

Section 2 - Cost Proposal

This section of the proposal shall contain at least the following information:

- Fee structure, broken down separately for: (a) the preliminary review, (b) situations where full review is not necessary owing to reversal by the utilization review company of its adverse determination due to new information (see section 38a-226-4(c) of the utilization review regulation), and (c) the full review.

The final charge to the Department must be a single flat rate for each of the three levels of review. However, the costs may vary by specialty, service, diagnosis or other appropriate distinguishing characteristics of an appeal.

Section 3 - Organization Support and Experience

The bidder shall submit a description of the administration and operation of its organization.

This section of the proposal shall contain at least the following information:

1. Location of bidder's headquarters and nearest offices. Include copy of Certificate of Incorporation or Partnership.
2. Any entity requesting designation as an EAE must provide the following about itself and any parent corporation and all subsidiaries and affiliates: (1) an organizational chart by ownership of all affiliated entities; (2) the names and addresses of owners/partners/shareholders of each entity; and (3) the names and addresses of members of the Board of each entity.

3. A chart of the bidder's organization which shows, for key project staff members, their level of responsibility within that organization. Provide an estimate of the number, types and functions of the personnel considered necessary to the administration and operation of the organization on a statewide basis with a separate job description detailing the roles of key persons, such as a Medical Director. Include an explanation of the contractual and financial relationships between the EAE and the clinical personnel who will actually be responsible for individual case reviews.
4. A list of clinical personnel who may be assigned to appeals. The list shall include for each reviewer: the name, professional license(s), board certification and any sanctions imposed.
5. A list of all managed care organizations, health care centers, health care facilities and other health care providers with whom the EAE maintains any health related business arrangements. This list shall include a brief description of the nature of any such arrangement.
6. In responding to this RFP, the applicant must describe the means by which it will:
 - Provide licensed review personnel who possess the appropriate training and qualifications for the area in which they will be conducting the review. The proposal should include the criteria to be used for the selection or rejection of review personnel
 - Ensure the availability of appropriate personnel as needed for timely and efficient review.
 - Ensure the neutrality and objectivity of all personnel conducting external reviews and avoid conflicts of interest. Provide affirmative evidence that no conflict of interest exists.

Documentation which clearly shows the bidder's experience in performing similar projects. The applicant shall describe its experience in managed care utilization review, including an explanation of level(s) and scope of involvement in the review process. The applicant may also provide a list of references including entities for which the applicant has performed utilization review.

Evaluation Criteria

The following criteria, not necessarily listed in order of significance, will be used to evaluate proposals:

1. The Bidder's general approach and plans to meet the requirements of the RFP, including the scope of services.
2. The qualifications and quantified experience of personnel to be assigned review of appeals.
3. The firms past performance on projects of similar scope and size, including experience in managed care utilization review.
4. The ability of the bidder, as judged by the state, to successfully complete the assignment within the proposed schedule. This judgment will be based on such factors as staff commitment, the project management plan and the availability of staff.
5. The bidder's ability to maintain confidentiality of patient information.
6. Costs/fee structure by review type. Such costs must be a single flat rate for preliminary review, situations where full review is not necessary owing to reversal by the utilization review company of its adverse determination due to new information, and full review, but may vary by specialty, service, diagnosis or other appropriate distinguishing characteristics.
7. The bidder's ability to ensure the neutrality of physician reviewers.
8. Administrative and operational policies and procedures.

Agreement for External Appeal Services

The Agreement for External Appeal Services (the Agreement) will be prepared by the Department in accordance with provisions of the Connecticut General Statutes. Statutory contractual provisions, a detailed description of the services to be provided, fees, deliverables, time frame for completion as well as the responsibilities of the external appeals entity Contractor and the Department will be specified in the Agreement.

By execution of the agreement, a designated external appeals entity expressly agrees to comply with all statutory provisions delineated in Part 1 of the Agreement, Conditions. A sample of Part 1 of the Agreement for External Appeal Services is appended to this document as Appendix D. All applicants should review Part I, which contains statutory provisions required by the State of Connecticut, which are not negotiable. Failure to accept the terms of Part 1 will be grounds for exclusion from consideration.

Part 2 of the Agreement, Specification of Services, will outline the scope of the services to be provided, time frame, fees, and the responsibilities of the Department and the external appeals entity. Part 2 will be prepared from and may contain excerpts from the external appeals entity's proposal.

All agreements must be executed by a party who is authorized to bind the contract as evidenced by a board of directors' resolution or certification under oath.

Appendix A

EXTERNAL APPEALS REGULATION

38a-478n-1 Applicability and Scope

Nothing in Sections 38a-478n-1 to 38a-478n-5, inclusive, shall be construed to apply to:

- (a) the arrangements of managed care organizations offered to individuals covered under self-insured employee welfare benefit plans established pursuant to the federal Employee Retirement Income Security Act of 1974; or
- (b) any plan that provides for the financing or delivery of health care services solely for the purposes of workers' compensation benefits pursuant to chapter 568 of the general statutes.

38a-478n-2 Definitions

As used in Sections 38a-478n-1 to 38a-478n-5, inclusive, of the Regulations of Connecticut State Agencies:

- (a) "Adverse determination" means determination by a utilization review company or managed care organization not to certify either before, during, or after services are received an admission, service, procedure or extension of stay because, based upon the information provided, the request does not meet the utilization review company or managed care organization's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness;
- (b) "Business Day" means a day during which the state government of Connecticut conducts regular business;
- (c) "Commissioner" means the Insurance Commissioner;
- (d) "Department" means the Insurance Department;
- (e) "Enrollee" means a person who has contracted for or who participates in a managed care plan for himself or his eligible dependents who participate in a managed care plan. For purposes of pursuing an appeal only, the term "enrollee" shall include any person the enrollee has designated as his or her legal representative;
- (f) "External appeals entity" means an impartial health entity, selected by the commissioner, after consultation with the commissioner of Public Health to provide a binding decision in cases where all internal appeals within a licensed utilization review company or managed care organization have been exhausted;
- (g) "Indigent individual" means an individual whose adjusted gross income (AGI) for the individual and spouse, as certified by the individual on a form provided by the commissioner, from the most recent federal tax return filed is less than two hundred percent of the applicable federal poverty level;
- (h) "Internal appeals" means the procedures provided by the utilization review company or managed care organization in which either the enrollee or provider acting on behalf of an enrollee may seek review of decisions not to certify an admission, procedure, service or extension of stay;
- (i) "Managed care organization" means "managed care organization" as defined in section 38a-478(2) of the Connecticut General Statutes;
- (j) "Managed care plan" means "managed care plan" as defined in section 38a-478(3) of the Connecticut General Statutes;
- (k) "Provider" means a person licensed to provide health care services of the type specified in chapters 370 to 373, inclusive, 375 to 383c, inclusive, 384a to 384c, inclusive, of the Connecticut General Statutes, or chapter 400j of the Connecticut General Statutes;

- (l) "Provider of record" means the physician or other licensed practitioner identified to the utilization review company or managed care organization as having responsibility for the care, treatment and services rendered to an individual;
- (m) "Utilization review" means "utilization review" as defined in section 38a-226 of the Connecticut General Statutes; and
- (n) "Utilization review company" means "utilization review company" as defined in section 38a-226 of the Connecticut General Statutes.

38a-478n-3 External Appeals

(a) Any enrollee, or any provider acting on behalf of an enrollee with the enrollee's consent, who has exhausted the internal mechanisms provided by a managed care organization or utilization review company to appeal the denial of a claim based on medical necessity or a determination not to certify an admission, service, procedure or extension of stay, regardless of whether such determination was made before, during or after the admission, service, procedure or extension of stay, may appeal such denial or determination to the commissioner.

(b) To appeal a denial or determination pursuant to this section an enrollee or any provider acting on behalf of an enrollee shall, not later than thirty (30) days after receiving final written notice of the denial or determination from the enrollee's managed care organization or utilization review company, file a written request with the commissioner. The appeal shall be on forms prescribed by the commissioner and shall include the filing fee set forth in section 38a-478n of the general statutes, and a general release executed by the enrollee for all medical records pertinent to the appeal. The managed care organization or utilization review company named in the appeal shall also pay to the commissioner the filing fee set forth in section 38a-478n of the general statutes. The commissioner shall waive the filing fee, on request, for individuals who demonstrate that they are indigent or unable to pay.

(c) For the purposes of sections 38a-478n-1 to 38a-478n-5, inclusive, of the Regulations of Connecticut State Agencies, not later than five (5) business days after receiving a written request from the commissioner, enrollee or any provider acting on behalf of an enrollee with the enrollee's consent, a managed care organization whose enrollee is the subject of an appeal shall:

(1) provide to the commissioner, enrollee or any provider acting on behalf of an enrollee with the enrollee's consent, written verification of whether the enrollee's managed care plan is fully insured, self-funded, or otherwise funded, and

(2) If the plan is a fully insured plan or a self-insured governmental plan, the managed care organization shall send: (A) Written certification to the commissioner or reviewing entity, as determined by the commissioner, that the benefit or service subject to the appeal is a covered benefit or service; (B) a copy of the entire policy or contract between the enrollee and the managed care organization, except that with respect to a self-insured governmental plan, (i) the managed care organization shall notify the plan sponsor, and (ii) the plan sponsor shall send, or require the managed care organization to send, such copy; or (C) written certification that the policy or contract is accessible to the review entity electronically and clear and simple instructions on how to electronically access the policy.

(d) The commissioner shall assign the appeal to an external appeals entity for review. In making such an assignment the commissioner shall consider the level of expertise of the entity to review the particular procedure or service for which the certification was denied. The commissioner may consider recommendations regarding the choice of an appropriate entity for an appeal.

(e) Within five (5) business days of receipt of the request for appeal from the commissioner, the external appeals entity shall conduct a preliminary review of the appeal and accept it for full review if it determines that:

- (1) the individual was or is an enrollee of the managed care organization;
 - (2) the benefit or service that is the subject of the complaint or appeal reasonably appears to be a covered service or benefit under the agreement provided by contract to the enrollee and any benefit limitations have not been exhausted;
 - (3) all internal appeals have been exhausted; and
 - (4) the appeal includes all information required by the commissioner.
- (f) Upon completion of the preliminary review, the external appeals entity shall notify the commissioner, and the enrollee or provider of record, in writing as to whether the appeal has been accepted for full review and, if not so accepted, the reasons therefore. If the appeal is accepted for full review, the entity shall immediately notify either by facsimile machine or by overnight service, the enrollee or provider of record and the managed care organization or utilization review company of their opportunity to submit the information specified in subsection (g) of this section within five (5) business days from the date of such notice for consideration during its review.
- (g) Upon acceptance of the appeal for review, the external appeals entity shall conduct a full review to determine whether the adverse determination should be reversed, revised, or sustained. Such review shall be performed by a provider who is a specialist in the field related to the condition that is the subject of the appeal. The reviewing provider may take into consideration:
- (1) pertinent medical records,
 - (2) consulting physician reports,
 - (3) practice guidelines developed by the federal government, national, state or local medical societies, boards or associations, and
 - (4) clinical protocols or practice guidelines developed by the utilization review company or managed care organization.
- (h) The external appeals entity shall complete its review and forward its decision to affirm, revise, or reverse the adverse determination to the commissioner within thirty (30) business days of completion of the preliminary review together with a report of its review. The external appeals entity may request an extension of time from the commissioner within which to complete its review as may be necessary due to circumstances beyond its control. If an extension is granted, the external appeals entity shall provide written notice to the enrollee or provider, setting forth the status of its review, the specific reasons for the delay and the anticipated date of completion of the review.
- (i) The commissioner may reassign an appeal to another external appeals entity if the commissioner determines (1) that a conflict of interest exists which may negatively impact the objectivity of the entity to which the appeal was initially assigned or (2) that the entity to which an appeal was assigned is unable to complete its review within a reasonable time.
- (j) The commissioner shall accept the decision of the external appeals entity and notify the enrollee or provider and the utilization review company or managed care organization of the decision, which shall be binding. The report of the external appeals entity's review shall be made available to the enrollee or provider and the utilization review company or managed care organization. The decision of the external appeals entity shall not be construed as authorizing services in excess of those that are provided for in the enrollee's managed care plan.
- (k) The request for appeal submitted by the enrollee or provider of record, the associated materials received by the managed care organization or utilization review company, the decision of the external appeals entity, and communication by and between the commissioner, the external appeals entity and the enrollee shall be maintained as confidential information protected by section 38a-8 of the Connecticut General Statutes

38a-478n-4 External Appeals Entities

a) The commissioner shall enter into agreements for external appeals services with as many external appeals entities as he deems necessary after consultation with the Commissioner of Public Health. The agreements shall set forth all terms which the commissioner deems necessary to assure a full and fair review of appeals. Selection of an external appeals entity shall include, but not be limited to, review of the entity's application with regard to the following:

- (1) proposed scope of services;
- (2) fee structure;
- (3) number and qualifications of reviewers;
- (4) procedures to ensure the confidentiality of health care information;
- (5) procedures to ensure the neutrality of reviewers;
- (6) administrative and operational policies and procedures; and
- (7) procedures to ensure that no conflict of interest exists among the entity and its reviewers and managed care organizations or the case under review.

(b) After entering into an agreement with the commissioner, the entity shall report changes in its ownership, operational or administrative status to the commissioner within thirty (30) days of the effective date of such change. If the commissioner determines that the reported change(s) may negatively impact the effectiveness or objectivity of the external appeals entity, the commissioner reserves the right to terminate the agreement.

(c) Any agreement may be terminated without cause by either party upon ninety (90) days written notice, except that the commissioner may terminate an agreement with an external appeals entity at any time if the commissioner determines that continuation of the agreement may result in unfair, biased or unreliable determinations which pose a threat to the public health.

38a-478n-5 Separability

If any provision of Sections 38a-478n-1 to 38a-478n-4, inclusive, or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of these regulations, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Appendix B

UTILIZATION REVIEW REGULATION

38a-226c-1 Applicability and scope

Except as otherwise specifically provided, sections 38a-226c-1 to 38a-226c-10, inclusive, of the regulations of Connecticut State Agencies shall apply to all utilization review companies that provide or perform utilization review services in this state on or after the effective date of said sections.

38a-226c-2 Definitions

As used in sections 38a-226c-1 to 38a-226c-10, inclusive, of the Regulations of Connecticut State Agencies:

- (a) "Adverse determination" means a determination by a utilization review company not to certify an admission, service, procedure or extension of stay because, based upon the information provided, the request does not meet the utilization review company's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness;
- (b) "Business day" means a day during which the state government of Connecticut conducts regular business;
- (c) "Commissioner" means the Insurance Commissioner;
- (d) "Enrollee" means "enrollee" as defined in section 38a-226 of the Connecticut General Statutes. For purposes of pursuing an appeal only, the term "enrollee" shall include any person the enrollee has designated as his or her legal representative;
- (e) "Managed care organization" means "managed care organization" as defined in section 38a-478 of the Connecticut General Statutes;
- (f) "New information" means information that has not been previously made available to a utilization review company or a managed care organization for consideration when determining whether to certify an admission, service, procedure or extension of stay;
- (g) "Patient medical records" means all information, including personally identifiable information, that relates to an individual's health care history, diagnosis, condition, treatment or evaluation that is obtained from any source;
- (h) "Personally identifiable information" means any data that identifies a particular patient. Personally identifiable information includes an individual's name, address and social security number;
- (i) "Provider of record" or "Provider" means "provider of record" or "provider" as defined in section 38a-226 of the Connecticut General Statutes or a provider providing treatment or care to the enrollee and acting on behalf of an enrollee, with the enrollee's written consent;
- (j) "Utilization review" means "utilization review" as defined in section 38a-226 of the Connecticut General Statutes;
- (k) "Utilization review company" means "utilization review company" as defined in section 38a-226 of the Connecticut General Statutes.

38a-226c-3 Statistical reporting to the Commissioner

(a) Each utilization review company shall file annually with the commissioner, on or before February 15, for the previous calendar year, the following statistical information with respect to utilization review activities conducted within this state:

- (1) The aggregate total of certifications performed;
- (2) The aggregate total of adverse determinations rendered;
- (3) The aggregate total of appeals of adverse determinations requested; and
- (4) The aggregate total of appeals of adverse determinations requested, ultimately resulting in a reversal of the initial adverse determination.

(b) Each utilization review company shall report the information indicated in a format as specified by the commissioner and shall maintain source records adequate to support the accuracy of the information filed.

(c) The information required in subsection (a) of this section shall also be provided on an aggregate basis with respect to utilization review activities conducted nationwide.

38a-226-4 Standards

(a) Pursuant to sections 38a-226c(a)(1)(E) and 38a-226c(a)(2) of the Connecticut General Statutes, each utilization review company shall maintain, and provide with each notice of a determination not to certify an admission, service, procedure or extension of stay, and make available upon request, a written description of the appeal procedure by which either the enrollee or the provider of record acting on behalf of the enrollee with the enrollee's written consent, may seek review of adverse determinations regarding certification of an admission, service, procedure or extension of stay. The procedures and written description for appeals shall include the following:

(1) A reasonable period within which an appeal must be filed to be considered by the utilization review company,

(2) Except as provided in subsection (e) of this section, each utilization review company shall make review staff available by toll-free telephone, at least forty (40) hours per week during normal business hours. The utilization review company shall maintain records of duty rosters or other written documentation evidencing the required level of staffing, and

(3) Notification, in bold print, that an appeal of a determination not to certify an admission, service, procedure or extension of stay to the commissioner pursuant to section 38a-478n of the Connecticut General Statutes, must be submitted to the commissioner within 30 days of receipt of a final written notice of a determination by the utilization review company.

(b) Pursuant to sections 38a-226c(a)(1)(E) and 38a-226c(a)(2) of the Connecticut General Statutes, each utilization review company shall maintain and provide with each final written notice of a determination not to certify an admission, service, procedure or extension of stay, a statement that all internal appeals have been exhausted for that service and a copy of a pamphlet, created and made available to utilization review companies by the commissioner and reproduced by the utilization review company, containing the procedure and application to appeal to the commissioner pursuant to section 38a-478n of the Connecticut General Statutes. The pamphlet may be created and made available to the utilization review company by the commissioner and shall be reproduced and used by the utilization review company if so made. A copy of the pamphlet shall also be available from the utilization review company to the enrollee, upon request.

(c) If the provider of record or enrollee has provided incomplete information to a utilization review company, the utilization review company shall indicate, in writing, to the provider of record and the enrollee all information that is needed to make a determination regarding certification of an admission, procedure, treatment or length of stay. Upon failure of the provider of record or enrollee

to provide such information, the utilization review company shall either: (1) issue a denial of certification, in accordance with the policy of the utilization review company, based on the failure to provide requested documentation; or (2) not issue a denial of certification but rather notify the enrollee and the provider of record, in writing, that no further action will be taken on the matter, until such time as the requested information is received.

(d) An enrollee or provider of record acting on behalf of the enrollee with the enrollee's written consent, may appeal an adverse determination regarding a managed care plan in accordance with section 38a-478n of the Connecticut General Statutes. If the appeal is accepted for full review, the external appeals entity shall immediately notify the enrollee, provider of record, and the utilization review company of their opportunity to submit the information described in subsection (g) of section 38a-478n-3 of the Regulations of Connecticut State Agencies concerning external appeals within five (5) business days from the date of such notice, for consideration during the external appeals entity's review. The external appeals entity shall provide such notice to the enrollee, provider of record, and to the utilization review company either by facsimile machine or by overnight service. The enrollee or provider of record shall state whether any information submitted in accordance with this subsection is new information. Upon receipt of any new information, the external appeals entity shall immediately contact the utilization review company by telephone and notify them that new information has been presented. The external appeals entity shall provide the utilization review company with the new information either by facsimile machine or by overnight service. The utilization review company shall have two (2) business days from receipt of the new information to determine whether the absence of such new information contributed to the adverse determination. If the utilization review company determines that the absence of such new information contributed to the adverse determination the utilization review company shall have the opportunity to reverse its adverse determination. The utilization review company shall promptly notify the external appeals entity of the decision. If the utilization review company's decision is to reverse its adverse determination, the external appeals entity shall promptly notify the enrollee or provider of record and the commissioner that the utilization review company has reversed the adverse determination based upon the new information. Any reversal of an adverse determination by a utilization review company based upon new information shall not be considered a reversal by the commissioner for the purposes of the reporting requirements established by section 38a-478a of the Connecticut General Statutes.

(e) If an enrollee has been admitted to an acute care hospital and the attending physician determines that the enrollee's life will be endangered or other serious injury or illness could occur if the patient is discharged or if treatment is delayed, the attending physician may transmit, in accordance with the standardized process developed pursuant to section 38a-478p of the Connecticut General Statutes, a request for an expedited review to the utilization review company. If the attending physician receives no response from the utilization review company after three hours have passed since the attending physician sent the request and all information needed to complete the review, the request shall be deemed approved. Each utilization review company shall make review staff available, daily, from 8:00 A.M. to 9:00 P.M. (eastern time) to process requests pursuant to this subsection.

38a-226c-5 Compensation based on certification denials -- prohibited

(a) No staff member, officer or consultant of a utilization review company shall receive any financial incentive based on the number of denials of certification made.

(b) No utilization review company shall receive any financial incentive based on the number of denials of certification made.

38a-226c-6 Confidentiality

- (a) Each utilization review company shall comply with the provisions of this section as well as all applicable federal and state laws to protect the confidentiality of patient medical records. Each utilization review company shall:
- (1) Secure each case file by assigning case identification numbers to all utilization review requests, and use such numbers in lieu of personally identifiable information, whenever feasible.
 - (2) Ensure that all paper copies of files are reasonably secured in appropriate storage facilities.
 - (3) Maintain appropriate written procedures for the requesting, maintenance, and disposition of patient medical records.
 - (4) Develop and maintain specifications indicating when and by whom the release of patient medical records is permitted.
 - (5) Ensure that all utilization review business operations are reasonably secured during non-business hours.
 - (6) Require all employees with access to patient medical records to sign a confidentiality statement, to be maintained on file by the company, in which the employee acknowledges the confidential nature of such information.
 - (7) Maintain a written policy stipulating sanctions for an employee's unauthorized disclosure of patient medical records, leading to termination of employment.
 - (8) Maintain procedures for limiting access to computer files containing patient medical records through passwords, restricted functions and computer terminal security.
 - (9) Develop and maintain procedures addressing the security of all patient medical records that are transferred by facsimile, which shall include:
 - (i) A statement in all facsimile transmission cover sheets that such data is confidential and is limited specifically for use by the company in making a utilization review determination; and
 - (ii) Security procedures governing the use of facsimile transmissions, specifying restricted access to such transmissions, the extent of such information that may be released, and the placement of the facsimile machine in a reasonably secured or isolated area.
- (b) Summary and aggregate data shall not be considered confidential if it does not provide sufficient information to allow identification of individual patients.

38a-226c-7 Record-keeping

Each utilization review company shall maintain an audit trail, through a written control log or computer report, clearly evidencing the date and time a request for:

- (1) utilization review;
- (2) expedited utilization review as described in subsection (c) of section 38a-226c-4 of the regulations of Connecticut State Agencies;
- (3) an appeal of an adverse determination; or
- (4) an expedited appeal of an adverse determination was received, the dates, times and reasons for any subsequent requests for additional information required to complete any such review or appeal, the dates and times of the receipt of the additional information and the date and time of notification to the provider of record or the enrollee.

38a-226c-8 Examinations

(a) The commissioner shall, as often as he deems it expedient, undertake a compliance examination of any utilization review company licensed and conducting business in this state. In conducting the examination the commissioner, or his designee, may examine the officers of such utilization review company, its books, records, procedures and any other information deemed to be relevant to the examination.

(b) Upon completing the compliance examination, the commissioner or his designee shall make a full and true report of the examination. The report shall include any corrective or remedial actions deemed necessary to be taken by the utilization review company in order to assure compliance with the requirements of Connecticut law.

38a-226c-9 License required

No utilization review company shall conduct utilization review in this state unless it has been licensed by the commissioner in accordance with section 38a-226a of the general statutes. All requests for licensure shall be made in a manner and on a form prescribed by the commissioner. All licenses shall be renewed annually.

38a-226c-10 Separability

If any provision of sections 38a-226c-1 to 38a-226c-10, inclusive, of the regulations of Connecticut State Agencies or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the provisions of said regulations, and the application of such provision to other persons or circumstances shall not be affected thereby.

Appendix C

Sec. 38a-483c. Coverage and notice re experimental treatments. Appeals. (a) Each individual health insurance policy delivered, issued for delivery, renewed, amended or continued in this state on or after January 1, 2000, shall define the extent to which it provides coverage for experimental treatments.

(b) No such health insurance policy may deny a procedure, treatment or the use of any drug as experimental if such procedure, treatment or drug, for the illness or condition being treated, or for the diagnosis for which it is being prescribed, has successfully completed a phase III clinical trial of the federal Food and Drug Administration.

(c) Any person who has been diagnosed with a condition that creates a life expectancy in that person of less than two years and who has been denied an otherwise covered procedure, treatment or drug on the grounds that it is experimental may request an expedited appeal as provided in section 38a-226c and may appeal a denial thereof to the Insurance Commissioner in accordance with the procedures established in section 38a-478n.

(d) For the purposes of conducting an appeal pursuant to section 38a-478n on the grounds that an otherwise covered procedure, treatment or drug is experimental, the basis of such an appeal shall be the medical efficacy of such procedure, treatment or drug. The entity conducting the review may consider whether the procedure, treatment or drug (1) has been approved by the National Institute of Health or the American Medical Association, (2) is listed in the United States Pharmacopoeia Drug Information Guide for Health Care Professionals (USP-DI), the American Medical Association Drug Evaluations (AMA-DE), or the American Society of Hospital Pharmacists' American Hospital Formulary Service Drug Information (AHFS-DI), or (3) is currently in a phase III clinical trial of the federal Food and Drug Administration.

(P.A. 99-284, S. 15, 60.)

History: P.A. 99-284 effective January 1, 2000.

Sec. 38a-513b. Coverage and notice re experimental treatments. Appeals. (a) Each group health insurance policy delivered, issued for delivery, renewed, amended or continued in this state on or after January 1, 2000, shall define the extent to which it provides coverage for experimental treatments.

(b) No such health insurance policy may deny a procedure, treatment or the use of any drug as experimental if such procedure, treatment or drug, for the illness or condition being treated, or for the diagnosis for which it is being prescribed, has successfully completed a phase III clinical trial of the federal Food and Drug Administration.

(c) Any person who has been diagnosed with a condition that creates a life expectancy in that person of less than two years and who has been denied an otherwise covered procedure, treatment or drug on the grounds that it is experimental may request an expedited appeal as provided in section 38a-226c and may appeal a denial thereof to the Insurance Commissioner in accordance with the procedures established in section 38a-478n.

(d) For the purposes of conducting an appeal pursuant to section 38a-478n on the grounds that an otherwise covered procedure, treatment or drug is experimental, the basis of such an appeal shall be the medical efficacy of such procedure, treatment or drug. The entity conducting the review may consider whether the procedure, treatment or drug (1) has been approved by the National Institute of Health or the American Medical Association, (2) is listed in the United States Pharmacopoeia Drug Information Guide for Health Care Professionals (USP-DI), the American Medical Association Drug Evaluations (AMA-DE), or the American Society of Hospital Pharmacists' American Hospital Formulary Service Drug Information (AHFS-DI), or (3) is currently in a phase III clinical trial of the federal Food and Drug Administration.

(P.A. 99-284, S. 16, 60.)

Appendix D

AGREEMENT FOR EXTERNAL APPEALS SERVICES

This Agreement (hereinafter “Agreement”) between the **STATE OF CONNECTICUT** acting through the Insurance Commissioner of the State of Connecticut, (hereinafter the “State”), pursuant to sections 4-8 and 38a-8, and 38a-478n of the Connecticut General Statutes, and _____, (hereinafter “Contractor”). The parties hereto agree that the services specified below shall be provided by Contractor in strict compliance with the provisions of the Agreement.

PART 1

CONDITIONS

1. Entire Agreement

The Agreement embodies the entire agreement between the State and Contractor on the matters specifically addressed herein. The parties shall not be bound by or liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. The Agreement shall supersede all prior written agreements between the parties and supersede all prior written agreements between the parties and their predecessors. No changes, amendments or modifications of any of the terms or conditions of the Agreement shall be valid unless reduced to writing, signed by all parties and approved by the Attorney General or his Deputy. The Agreement shall inure to the benefit of each party’s heirs, successors, and assigns.

2. Changes in Services

When changes in the services covered by the Agreement are required or requested by the State, Contractor shall promptly estimate their monetary effect and so notify the State. No change in services shall be implemented by Contractor unless it is approved by the State in writing; and, unless otherwise agreed to in writing, the provisions of the Agreement shall apply to all such changes. If the State determines that any change materially affects the cost or time of performance of the Agreement as a whole, Contractor and the State shall mutually agree in writing to an equitable adjustment.

3. Independent Contractor

Contractor represents that it is fully experienced and properly qualified to perform the services provided for herein, and that it is properly licensed, equipped, organized and financed to perform such services. Contractor shall act as an independent contractor in performing the Agreement, and shall maintain complete control over its employees and all of its subcontractors, if any. Contractor shall perform all services in accordance with its methods, subject to compliance with the Agreement and all applicable laws and regulations. Contractor shall furnish fully qualified personnel to perform the services under the Agreement. It is acknowledged that services rendered by the Contractor to the State hereunder do not in any way conflict with other contractual commitments with or by Contractor.

4. Notices

Unless otherwise expressly provided to the contrary, any notices provided for hereunder shall be in writing and may be delivered personally or by mail. Notices will be effective if delivered personally or, if by mail, upon receipt, to the following addresses:

State: Connecticut Insurance Department
Life & Health Division
153 Market Street, 7th Floor
P.O. Box 816
Hartford, CT 06142-0816
Attention: Mary Ellen Breault, Director

Contractor:

The parties may change their respective addresses for notices under this section 4 upon prior written notification to each other.

5. Laws and Regulations

The Agreement shall be interpreted under and governed by the laws of the State of Connecticut.

Contractor, its employees and representatives shall at all times comply with all applicable laws, ordinances, statutes, rules, regulations and orders of governmental authorities, including those having jurisdiction over its registration and licensing to perform services hereunder.

6. Jurisdiction

Contractor agrees that the execution of the Agreement and the performance of its obligations hereunder, shall be deemed to have a Connecticut situs and Contractor shall be subject to the personal jurisdiction of the courts of the State of Connecticut with respect to any action the Commissioner, his successors or assigns may commence hereunder. Accordingly, Contractor hereby specifically and irrevocably consents to the jurisdiction of the courts of the State of Connecticut with respect to all matters concerning the Agreement or the enforcement thereof in any action initiated by the Commissioner or which the Commissioner voluntarily joins as a party.

7. Labor and Personnel

At all times, Contractor shall utilize qualified personnel necessary to perform the services under the Agreement.

8. Conflicts, Errors, Omissions and Discrepancies

In case of conflicts, discrepancies, errors or omissions among the various parts of the Agreement, any such matter shall be submitted immediately by Contractor to the State for clarification. The State shall issue such clarification within a reasonable period of time. Any services affected by such conflicts, discrepancies, errors or omissions which are performed by Contractor prior to clarification by the State are undertaken at Contractor's risk.

9. Third Parties

The Agreement is between the State and Contractor only and shall not be relied upon by, or create any rights in, any third party.

10. Indemnity

Contractor hereby agrees to indemnify, defend, and hold harmless the State, its officers, and its employees from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, monetary loss, interest, attorney's fees, costs and expenses of whatsoever kind or nature arising out of the performance of the Agreement, including those arising out of injury to or death of Contractor's employees, whether arising before, during or after completion of the services hereunder and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault or negligence of Contractor or its employees or agents.

11. Nondisclosure

Contractor shall not release any information concerning the services provided pursuant to the Agreement or any part thereof to any member of the public, press, business entity or any official body without the prior written consent of the State.

12. Quality Surveillance

All services performed by Contractor under the Agreement shall be subject to the inspection and approval of the State at all times, and Contractor shall furnish all information concerning the services and grant the State's duly authorized representatives free access at all reasonable times upon 24 hours' notice to any and all books and records relating to such services.

The State will conduct semi-annual performance evaluations of the contractor's performance. The criteria to be considered includes but is not limited to the following:

- Knowledge and understanding of Connecticut's regulatory framework;
- Performance (quality, quantity, thoroughness, accuracy and timing);
- Communication and reporting progress to the State at regular intervals
- Ability to deliver contracted services within agreed upon cost estimates; and
- Value added (training, researching issues, understanding and documenting new developments).

The State's evaluation will also take into consideration the contractor's understanding of the scope of the assignment, time frame in which it was completed, the final work product and final cost of the services provided in comparison to the original estimate. A contractor must receive a satisfactory evaluation to be eligible for future assignments.

13. Non-Waiver

None of the conditions of the Agreement shall be considered waived by the State or Contractor unless given in writing. No such waiver shall be a waiver of any past or future default, breach or modification of any of the conditions of the Agreement unless expressly stipulated in such waiver.

14. Examination of Contractor's Records; Confidentiality

Contractor shall maintain records and other evidence pertaining to work performed under the Agreement during the contract period and for three full years from termination of the contract. Contractor shall

maintain the confidentiality of medical information at all times in accordance with state and federal law. Contractor shall promptly honor any request from an individual for the return of medical records that are his property.

The State or its representatives shall have the right at reasonable hours to examine any books, records and other documents of Contractor pertaining to work performed under the Agreement in accordance with part 2, section 1 of the Agreement. The State will give Contractor 24 hours' notice of such intended examination. At the State's request, Contractor shall provide the State with hard copies of, or magnetic tape containing, any data or information relating to the State's business, which data or information is in the possession or control of Contractor.

15. Promotion

Unless specifically authorized in writing by the Commissioner on a case by case basis, Contractor shall have no right to use, and shall not use, the name of the State of Connecticut, its officials or employees, or the seal of the State:

- (a) in any advertising, publicity, promotion; or
- (b) to express or to imply any endorsement of Contractor's products or services; or
- (c) in any manner (whether or not similar to uses prohibited by subparagraphs (a) and (b) above), except to prepare and deliver in accordance with the Agreement such items as are hereby contracted for by the State.

16. Survival

The rights and obligations of the parties which by their nature survive termination or completion of the Agreement, including but not limited to these set forth herein part 1, sections 6, 9, 10, 11, 14, 15, 17 and 19 of the Agreement, shall remain in full force and effect.

17. Ownership of Material

Any data provided to Contractor by the State or developed by Contractor with regard to the State shall belong exclusively to the State unless the State agrees in writing to the contrary.

18. Non-Discrimination

- (a) For the purposes of this section, "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise; (2) who have the power to direct the management and policies of the enterprise; and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n of the Connecticut General Statutes; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements. For purposes of this section, "Commission" means the Commission on Human Rights and Opportunities.

- (b) (1) Contractor agrees and warrants that in the performance of the Agreement, Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut. Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by Contractor that such disability prevents performance of the work involved; (2) Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of Contractor, to state that it is an “affirmative action-equal opportunity employer” in accordance with regulations adopted by the Commission; (3) Contractor agrees to provide each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or worker’s representative of Contractor’s commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) Contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f of the Connecticut General Statutes and with each regulation or relevant order issued by said Commission pursuant to section 46a-56 of the Connecticut General Statutes, as amended by section 5 of Public Act 89-253, and sections 46a-68e and 46a-68f of the Connecticut General Statutes; (5) Contractor agrees to provide the Commission On Human Rights And Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of Contractor as relate to the provisions of this section and section 46a-56 of the Connecticut General Statutes.
- (c) Determination of Contractor’s good faith efforts shall include, but shall not be limited to, the following factors: Contractor’s employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) Contractor shall include the provisions of subsection (b) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempt by regulations or orders of the Commission. Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56 of the Connecticut General Statutes, as amended by section 5 of Public Act 89-253; provided if Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

- (f) Contractor agrees to comply with the regulations referred to in this section as they exist on the date of the Agreement and as they may be adopted or amended from time to time during the term of the Agreement and any amendments thereto.
- (g) Contractor agrees to the following provisions: Contractor agrees and warrants that in the performance of the Agreement Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; Contractor agrees to provide each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56 of the Connecticut General Statutes; Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of Contractor which relate to the provisions of this section and section 46a-56 of the Connecticut General Statutes.
- (h) Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56 of the Connecticut General Statutes; provided, if Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (i) This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 and, as such, this contract may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three, or any state or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this contract. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion. The contractor, agrees, as part consideration hereof, that this contract is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three and that he will not discriminate in his employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner. This contract is also subject to provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this contract may be canceled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen notwithstanding that the Labor Commissioner may not be a party to this contract. The

parties to this contract, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

19. Campaign Contribution Restrictions

For all State contracts as defined in P.A. 07-1 having a value in the calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See Exhibit G [SEEC Form 11].

20. Violence in the Workplace Prevention Policy

This contract is subject to the provisions of Executive Order No. 16 of Governor John G. Rowland promulgated August 4, 1999 and as such, the contract may be canceled, terminated or suspended by the State for violation of or noncompliance with said Order. The parties to this contract, as part of the consideration hereof, agree that Executive Order No. 16 is incorporated by reference and made a part thereof. The parties agree to abide by said Executive Order.

21. Sovereign Immunity

Notwithstanding any provisions to the contrary contained in the Agreement, it is agreed and understood that the State of Connecticut shall not be construed to have waived any rights or defenses of sovereign immunity which it may have with respect to all matters arising out of the Agreement.

22. Termination

The parties agree that the Agreement may be terminated upon ninety (90) days' written notice delivered by certified or registered mail as provided in section 4 of this part.

23. Specification of State Official

Unless otherwise designated, wherever the term "Commissioner" is used in the Agreement, it means "Insurance Commissioner" and shall include his authorized agent, employee or designee.

24. Assignment

The Agreement shall not be assigned by Contractor without the express prior written consent of the State.

25. Severability

If any part, parts, section or sections of the Agreement shall be held to be void or unenforceable, such part, parts, section or sections shall be treated as severable, leaving valid the remainder of the Agreement notwithstanding the part, parts, section or sections found to be void or unenforceable.

Exhibit E

Bid / Proposal Affidavit

**Gift/Campaign Contribution Affidavit to Accompany Bid or Proposal
for Large State Contracts, Pursuant to Sections 2, 3 and 4 of Public Act 04-245
and Governor M. Jodi Rell's Executive Order No. 1, para 8.**

I, Type/Print Name, Title and Name of Firm or Corporation, hereby swear that during the two-year period preceding the submission of this bid or proposal that neither myself nor any principals or key personnel of the submitting firm or corporation who participated directly, extensively and substantially in the preparation of this bid or proposal nor any agent of the above gave a gift, as defined in Conn. Gen. Stat. §1-79(e), including a life event gift as defined in Conn. Gen. Stat. §1-79(e)(12), to (1) any public official or state employee of the state agency or quasi-public agency soliciting the bids or proposals who participated directly, extensively, and substantially in the preparation of the bid solicitation or preparation of request for proposal or (2) to any public official or state employee who has supervisory or appointing authority over the state agency or quasi-public agency soliciting the bid or proposal, except the gifts listed below:

| <u>Name of Benefactor</u> | <u>Name of recipient</u> | <u>Gift Description</u> | <u>Value</u> | <u>Date of Gift</u> |
|---------------------------|--------------------------|-------------------------|--------------|---------------------|
|---------------------------|--------------------------|-------------------------|--------------|---------------------|

List information here

Further, neither I nor any principals or key personnel of the submitting firm or corporation who participated directly, extensively and substantially in the preparation of this bid or proposal know of any action to circumvent this gift/campaign contribution affidavit.

Further, during the two-year period preceding the submission of this bid or proposal, neither I nor any principals or key personnel of the submitting firm or corporation who participated directly, extensively and substantially in the preparation of this bid or proposal nor any agent of the above gave a contribution to a candidate for statewide public office or the General Assembly, as defined in Conn. Gen. Stat. §9-333b, except as listed below:

| <u>Contributor</u> | <u>Recipient</u> | <u>Amount/Value</u> | <u>Date of Contribution</u> |
|---------------------------------|------------------|---------------------|-----------------------------|
| <u>Contribution Description</u> | | | |

List information here

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

Signature

Date

Sworn and subscribed before me on this _____ day of _____, 200__

Commissioner of the Superior Court
Notary Public

EXHIBIT F

AFFIDAVIT REGARDING CONSULTING AGREEMENTS

All state contractors, vendors, consultants or other entities seeking to conduct business with the State of Connecticut who anticipate entering into, or renewing, an agreement for procurement of goods or services having a total value to the state of more than fifty thousand dollars in a calendar or fiscal year (hereinafter "agreement") shall disclose any and all consulting agreements, whether written or oral, to the head of the contracting agency (hereinafter "such agency").

"Consulting agreement" means any written or oral agreement to retain the services, for a fee, of an individual or business entity for the purposes of:

- (1) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the State of Connecticut, or
- (2) contacting, whether in writing or orally, any executive, judicial, or administrative office of the state, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information or
- (3) any other similar activity related to the procurement agreement.

"Consulting agreement" does not include those agreements or services registered under the provisions of Chapter 10 of the Connecticut General Statutes (Code of Ethics for Lobbyists).

Such disclosure affidavit shall be required if any duties of the consultant include communication concerning business of such agency, whether or not direct contact with a state agency, state official and state employee is expected or made. The disclosure affidavit shall include the name of the consultant, the consultant's firm, whether the consultant is a former state employee or public official (if so, indicate the consultant's former agency and termination date), the basic terms of the consulting agreement, and a brief description of the services to be provided. The disclosure affidavit shall be amended whenever such entities enter into any new consulting agreements during the term of the procurement agreement.

I, _____ (name, title, and company name) disclose the following consulting agreements (if not applicable, indicate "none"):

- 1.
- 2.
- 3.

I understand that this information shall be updated, as necessary, during the pendency of this, or any other contract that I may have with the State of Connecticut.

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

Name: _____ Signature: _____ Date: _____

Subscribed and Sworn before me this day of , 20__.

Notary Public/Commissioner of the Superior Court

EXHIBIT G

SEEC FORM 11

NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION BAN

This notice is provided under the authority of Connecticut General Statutes 9-612(g)(2), as amended by P.A. 07-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

Campaign Contribution and Solicitation Ban

No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a *state contract or state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or *solicit* contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

Duty to Inform

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

Penalties for Violations

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties--\$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of \$2000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or \$5000 in fines, or both.

Contract Consequences

Contributions made or solicited in violation of the above prohibitions may result, in the case of a state contractor, in the contract being voided.

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State will not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information and the entire text of P.A 07-1 may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "State Contractor Contribution Ban."

Definitions:

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created

by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan or a loan to an individual for other than commercial purposes.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.