

Scott Walker, Governor
John A. Scocos, Secretary



STATE OF WISCONSIN
DEPARTMENT OF VETERANS AFFAIRS

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**MEMORANDUM OF UNDERSTANDING
BETWEEN
WISCONSIN BUSINESS ENTERPRISE PROGRAM
WISCONSIN DEPARTMENT OF WORKFORCE DEVELOPMENT
DIVISION OF VOCATIONAL REHABILITATION
AND
WISCONSIN DEPARTMENT OF VETERANS AFFAIRS**

1. PARTIES

Wisconsin Business Enterprise Program (hereinafter referred to as BEP), and Wisconsin Department of Veterans Affairs (hereinafter referred to as DVA) do hereby enter into an agreement with the following terms and conditions; to wit:

2. PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to:

Allow vending services at the King Veterans Home as per paragraph 8. Attachments included are the Business Associate Agreement (BAA), Wisconsin Standard Terms and Conditions (DOA Form 3054), and King Contractor Entrance Requirements.

3. TERM

This MOU shall commence on signing of this document and be renewed annually for a period of five (5) years unless revised by further written agreement between the parties.

This MOU may be terminated by either party upon giving sixty (60) days prior written notice to the other party in accordance with Section 10 of this MOU.

4. COMPENSATION

No compensation will be necessary for the execution of this MOU.

5. SUBCONTRACTING OR ASSIGNMENT

BEP may have subcontracts to support services.

6. APPLICABLE LAW

This agreement shall be governed under the laws of the State of Wisconsin. Both parties shall, at all times, comply with and observe all federal and state laws, local laws, ordinances, DVA's rules and regulations which are in effect during the period of this agreement and which in any manner affect the work or its conduct. This shall include considerations related specifically to the regulations concerning the operations of the Business Enterprise Program.

7. INDEMNIFICATION

The parties agree that as related to this agreement, any loss or expense by reason of liability imposed by law upon either party for damages shall be allocated to the parties as determined by the Bureau of Risk Management of the Department of Administration with the intent that DVA, the WVH, the Board of Veterans Affairs and their officers, agents and employees will not be responsible for loss, costs, or damages sustained, resulting from and directly connected to the use of the above parking lot and boat landing, except as such liability is caused by the DVA, the Board of Veterans Affairs or any of their officers, agents and employees.

8. ADDITIONAL CONDITIONS

VENDING MACHINE LOCATION & TYPE

Marden Center

Kiosk vending services with a wide range of foods and beverages

Central Services Building, 1st Floor Entry

1 each soft drink, can
1 each snack merchandiser

Olson Hall, Room 123

1 each soft drink, can
1 each soft drink, bottle
1 each snack merchandiser
1 each coffee merchandiser
1 each general merchandiser
1 each currency changer
1 each microwave oven w/condiment stand

Stordock Hall, Room 17

1 each soft drink, can
1 each soft drink, bottle
1 each snack merchandiser
1 each coffee merchandiser
1 each general merchandiser
1 each currency changer
1 each microwave oven w/condiment stand

MacArthur Hall, Room 139

1 each soft drink, can
1 each soft drink, bottle
1 each snack merchandiser

- 1 each coffee merchandiser
- 1 each general merchandiser
- 1 each currency changer
- 1 each microwave oven w/condiment stand

Ainsworth Hall, First Floor

- 1 each soft drink, can
- 1 each snack merchandiser
- 1 each coffee merchandiser
- 1 each general merchandiser
- 1 each currency changer
- 1 each microwave oven w/condiment stand

9. RENEWAL

Subject to this clause, this MOU shall be reviewed by the parties prior to May 1 each year of the term provided in Section 3.01 of this MOU to see if the MOU should be extended for a further term upon the same terms and conditions as are herein contained in this MOU, unless an earlier termination or amendment is mutually agreeable.

10. NOTICE

Any notice required hereunder shall be delivered or sent to the other party at the address shown below, until and unless such party notifies the other of a change of address for purposes of this paragraph.

DWD/DVR, BEP: Lorie Lange, Program Development Section Chief
 Division of Vocational Rehabilitation
 201 East Washington Avenue, Room G100
 Madison, WI 53703

DVA: James A. Parker, Chief Financial Officer
 WI Department of Veterans Affairs
 201 W. Washington Avenue
 Madison, WI 53703

11. CANCELLATION

DVA reserves the right to cancel this MOU in whole or in part without penalty due to noncompliance of BEP with the terms, conditions, and specifications of this MOU.

BEP reserves the right to cancel this MOU in whole or part without penalty due to changes to regulation and funding.

12. SEVERABILITY AND TOTALITY OF AGREEMENT

This document constitutes the sum and total agreement between BEP and DVA. Any other understandings or agreements are null and void unless in writing and incorporated by reference into this document.

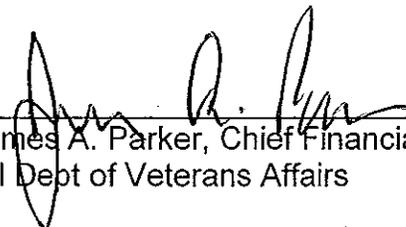
Should any section, clause or provision of this MOU be found to be unenforceable, all other sections, clauses or provisions shall remain in full force and effect.

Dated this 24 day of March 2016.

Dated this 13 day of April 2016.



Enid Glenn, Deputy Administrator
Division of Vocational Rehabilitation



James A. Parker, Chief Financial Officer
WI Dept of Veterans Affairs

Attachment A:

Wisconsin Department of Administration
Chs. 16, 51 Wis. Stats.
DOA-3054A (R09/2004)

STATE OF WISCONSIN STANDARD TERMS AND CONDITIONS

ANTITRUST ASSIGNMENT: The contractor and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin (purchaser). Therefore, the contractor hereby assigns to the State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.

APPLICABLE LAW AND COMPLIANCE: This contract shall be governed under the laws of the State of Wisconsin. The contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. The State of Wisconsin reserves the right to cancel this contract if the contractor fails to follow the requirements of s. 77.66, Wis. Stats. and related statutes regarding certification for collection of sales and use tax. The State of Wisconsin also reserves the right to cancel this contract with any federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.

CANCELLATION: The State of Wisconsin reserves the right to cancel any contract in whole or in part without penalty due to nonappropriation of funds or for failure of the contractor to comply with terms, conditions, and specifications of this contract.

WORK CENTER CRITERIA: A work center must be certified under s.16.752, Wis. Stats., and must ensure that when engaged in the production of materials, supplies or equipment or the performance of contractual services, not less than seventy-five percent (75%) of the total hours of direct labor are performed by severely handicapped.

INSURANCE RESPONSIBILITY: The contractor performing services for the State of Wisconsin shall:

Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.

Maintain commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this contract. Minimum coverage shall be one million (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

The state reserves the right to require higher or lower limits where warranted.

NONDISCRIMINATION / AFFIRMATIVE ACTION: In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s.51.01(5), Wis. Stats., sexual orientation as defined in s.111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities.

Contracts estimated to be over twenty-five thousand dollars (\$25,000) require the submission of a written affirmative action plan by the contractor. An exemption occurs from this requirement if the contractor has a workforce of less than twenty-five (25) employees. Within fifteen (15) working days after the contract is awarded, the contractor must submit the plan to the contracting state agency for approval. Instructions on preparing the plan and technical assistance regarding this clause are available from the contracting state agency.

The contractor agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.

Failure to comply with the conditions of this clause may result in the contractor's becoming declared an "ineligible" contractor, termination of the contract, or withholding of payment.

PATENT INFRINGEMENT: The contractor selling to the State of Wisconsin the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of the articles described herein will not infringe any United States patent. The contractor covenants that it will at its own expense defend every suit which shall be brought against the State of Wisconsin (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.

PAYMENT TERMS AND INVOICING: The State of Wisconsin normally will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified.

Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing.

A good faith dispute creates an exception to prompt payment.

REFUND OF CREDITS: The contractor agrees to pay the state within 60 days, at the state's request, any credits resulting from the order which the state determines cannot be applied to future invoices.

TAXES: The State of Wisconsin, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The State of Wisconsin may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay state use tax on the cost of materials.

TERMS AND CONDITIONS: The Standard Terms and Conditions (DOA-3054) or the Standard Terms and Conditions for State of Wisconsin Printing (DOA-3604) shall apply to all orders. Copies of these terms and conditions are available upon request from the State Bureau of Procurement.

VENDOR TAX DELINQUENCY: Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.

Attachment B:

BUSINESS ASSOCIATE AGREEMENT¹

THIS BUSINESS ASSOCIATE AGREEMENT ("Agreement") is made and entered into as of the 24th day of March, 2016, by and between the State of Wisconsin, Department of Veterans Affairs, hereinafter referred to as the ("Covered Entity"), and hereinafter referred to as ("Business Associate").

RECITALS

- A. Covered Entity and Business Associate entered into an agreement (the "Underlying Agreement") pursuant to which Business Associate agrees to perform certain services on behalf of Covered Entity.
- B. In performing services on behalf of the Covered Entity, Business Associate, it is anticipated that Business Associate will create, access, receive, maintain or transmit Covered Entity's Protected Health Information (defined below).
- C. The parties wish to enter into this Agreement to set forth their understanding with regard to Business Associate's Use and Disclosure of Protected Health Information (defined below) in accordance with the business associate agreement requirements of the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 ("HITECH"), and all applicable implementing regulations, including, without limitation, the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule"), Notification in the Case of Breach of Unsecured Protected Health Information ("Breach Notification Rule"), and the Security Standards for the Protection of Electronic Protected Health Information (the "Security Rule") found at Title 45, Parts 160 and 164 of the Code of Federal Regulations, dealing with the security, confidentiality, integrity and availability of protected health or health-related information, as well as breach notifications (all such laws and regulations shall be collectively referred to herein as "HIPAA").

AGREEMENTS

In consideration of the Recitals and the mutual agreements which follow, Covered Entity and Business Associate agree as follows:

Definitions. Capitalized terms used in this Agreement, but not otherwise defined, shall have the same meaning as those terms in the Privacy Rule or the Security Rule.

Breach means the acquisition, access, Use, or Disclosure of Protected Health Information (PHI) or ePHI as defined in 1(c) in a manner not permitted under the Privacy Rule which compromises the security or privacy of the PHI or ePHI. PHI and ePHI are presumed to be compromised unless Covered Entity or Business Associate, as applicable, documents that there is a low probability that the PHI or ePHI have been compromised based on a risk assessment of at least the following factors:

The nature and extent of the PHI or ePHI involved, including the types of identifiers and the likelihood of re-identification;

The unauthorized person who used the PHI or ePHI or to the Disclosure was made;

Whether the PHI or ePHI was actually acquired or viewed; and

The extent to which the risk to the PHI or ePHI have been mitigated.²

Breach excludes:

- (i) Any unintentional acquisition, access or Use of PHI or ePHI by a workforce member or person acting under the authority of a Covered Entity or Business Associate if such acquisition, access, or Use was made in good faith and within the scope of authority and does not result in further Use or Disclosure in a manner not permitted under the Privacy Rule.
- (ii) Any inadvertent Disclosure by a person who is authorized to access PHI or ePHI at a Covered Entity or Business Associate to another person authorized to access PHI or ePHI at the same Covered Entity or Business Associate, or organized health care arrangement in which the Covered Entity participates,

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² 45 CFR §164.402.

and the information received as a result of such Disclosure is not further used or disclosed in a manner not permitted under the Privacy Rule.

- (iii) A Disclosure of PHI or ePHI where a Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the Disclosure was made would not reasonably have been able to retain such information.³

Protected Health Information or "PHI"⁴ means that Individually identifiable health information (including ePHI as defined below in 1(c)) of the Covered Entity that is created, used, disclosed, maintained, or received by the Business Associate, including demographic information, that identifies an Individual, or provides a reasonable basis to believe the information can be used to identify an Individual, and relates to:

- (iv) Past, present or future physical or mental health or condition of an Individual
- (v) The provision of health care to an Individual
- (vi) The past, present, or future payment for the provision of health care to an Individual excluding:

Regarding a person who has been deceased for more than 50 years;

Employment records held by Covered Entity in its role as employer;

Education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g and student records described at 20 U.S.C. 1232g(a)(4)(B)(iv).

Electronic Protected Health Information or "ePHI" means that PHI of Covered Entity which is transmitted by Electronic Media (as defined in the HIPAA Privacy and Security Rule) or maintained in Electronic Media.

Individual means the person who is the subject of PHI, and shall include a person who qualifies under the Privacy Rule as a personal representative of the Individual.

Unsecured Protected Health Information means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2) of Pub. L. 111-5 on the HHS website.⁵

Responsibilities of Business Associate.

Prohibition on Unauthorized Use or Disclosure of PHI or ePHI. Business Associate shall not use or disclose any PHI or ePHI received from or on behalf of Covered Entity except as permitted or required by the Agreement or this Agreement, as Required by Law, or as otherwise authorized in writing by Covered Entity.

Minimum Necessary. Business Associate shall not request, use or disclose more than the minimum amount of PHI or ePHI necessary to accomplish the purpose of the Use, Disclosure, or request.

Use and Disclosure of PHI or ePHI. Except as described in Section 4, Business Associate may access, transmit, maintain, retain, modify, record, store, destroy or otherwise hold, use or disclose PHI or ePHI only for the following purposes(s):

Use of PHI or ePHI for Business Associate's Operations. Business Associate may use and/or disclose PHI or ePHI it creates for, or receives from, Covered Entity to the extent necessary for Business Associate's proper management and administration, or to carry out Business Associate's legal responsibilities, only if:

- (vii) The Disclosure is Required by Law; or
- (viii) Business Associate obtains reasonable assurances, evidenced by written contract, from any person or organization to which Business Associate shall disclose such PHI or ePHI that such person or organization shall:

hold such PHI or ePHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the person or organization, or as Required by Law; and

³ 45 CFR §164.402.

⁴ 45 CFR § 160.103.

⁵ See HHS Guidance website:

<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brguidance.html>.

notify Business Associate, who shall in turn promptly notify Covered Entity, of any occurrence which the person or organization becomes aware of in which there was a privacy or security incident and/or the confidentiality of such PHI or ePHI was breached.

De-identification of PHI or ePHI.

- (ix) Creation and Use of De-identified Data. To the extent that Business Associate receives PHI or ePHI and in the event Business Associate wishes to de-identify PHI or ePHI, it must first submit its proposed plan for accomplishing the conversion to Covered Entity for Covered Entity's approval, which shall not be unreasonably withheld provided such conversion meets the requirements of 45 CFR § 164.514. Business Associate may use de-identified PHI or ePHI only as directed or otherwise agreed to by Covered Entity.
- (x) Re-identification Prohibited. Unless otherwise agreed upon by the parties, in the event that Covered Entity provides Business Associate with de-identified PHI or ePHI, Business Associate shall not be given access to, nor shall Business Associate attempt to develop on its own, any keys or codes that can be used to re-identify the data.

Safeguarding of PHI.

- (xi) To the extent that Business Associate receives PHI or ePHI, Business Associate shall use appropriate safeguards and comply with Subpart C of 45 CFR Part 164, Security Standards for the protection of Electronic Protected Health Information, with respect to ePHI, to prevent access, use, or disclosure of ePHI other than as provided for by this Agreement.
- (xii) To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under the Privacy Rule, Business Associate shall comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s). This includes using appropriate safeguards to prevent inappropriate and/or unauthorized access, use, or disclosure of PHI or ePHI.
- (xiii) Business Associate shall review and modify its privacy and security safeguarding measures as needed to continue providing reasonable and appropriate protection of PHI or ePHI.
- (xiv) Business Associate shall maintain documentation of privacy and security safeguarding measures as required by HIPAA.⁶
- (xv) Business Associate shall cooperate in good faith in response to any reasonable requests from Covered Entity to discuss, review, inspect, or audit Business Associate's safeguards.

Subcontractors.⁷ If at any time PHI or ePHI received from, or created or received by Business Associate on behalf of Covered Entity, is provided or made available by Business Associate to any of its Subcontractors, then Business Associate shall require each such Subcontractor to agree in writing to the same restrictions and conditions on the Use or Disclosure of PHI or ePHI as are imposed on Business Associate by this Agreement and applicable law, including the HIPAA Privacy and Security Rules. Business Associate shall ensure that all such Subcontractors that create, receive, maintain, or transmit PHI or ePHI will implement reasonable and appropriate safeguards to protect such PHI or ePHI.

Access to PHI or ePHI. At the direction of Covered Entity or an Individual, Business Associate agrees to provide access to any PHI or ePHI held by Business Associate, which Covered Entity has determined to be part of Covered Entity's Designated Record Set, in the time and manner designated by Covered Entity. Further, Business Associate shall grant Individuals access to an electronic copy of PHI or ePHI maintained electronically in that Individual's Designated Record Set in accordance with 45 CFR § 164.524(c). Business Associate also shall provide or transmit the copy of PHI or ePHI to a third party if directed in writing to do so by the Individual or Covered Entity. This access will be provided to the Individual, Covered Entity or, as directed by Covered Entity, to an Individual, in order to meet the requirements under the Privacy Rule.

Reports of Nonpermitted Uses or Disclosures, Security Incidents or Breaches.

- (xvi) Reports of Nonpermitted Use or Disclosure. Business Associate agrees to promptly report to Covered Entity any Use or Disclosure of the PHI or ePHI not provided for by this Agreement and cooperate with Covered Entity in its investigation of such event.

⁶ 45 CFR § 164.308(e).

⁷ 45 CFR § 164.308(b)(2), 45 CFR § 164.314(a)(2)(i)(B), 45 CFR § 164.502(a)(5); ARRA/HITECH Title XIII Subtitle D, Section 13404(a)(b).

(xvii) Reports of Security Incidents. For purposes of this Section, "Security Incident" shall have the same meaning as "Security Incident" in 45 CFR § 164.304. Business Associate agrees to promptly notify Covered Entity of any Security Incident involving PHI or ePHI of which it becomes aware and cooperate with Covered Entity in the investigation. Business Associate will report attempted but unsuccessful Security Incidents that do not result in any unauthorized access, Use, Disclosure, modification or destruction of PHI or ePHI, or interference with an information system at Covered Entity's request, at least annually even in the absence of the Covered Entity's request.

(xviii) Reports Related to Potential Breach of Unsecured PHI or ePHI.

Following the discovery of a Breach of Unsecured PHI or ePHI, Business Associate shall notify Covered Entity of the Breach. Such notification shall be made without unreasonable delay after discovering the Breach, but no later than sixty (60) calendar days after its discovery.

Business Associate's notice shall include, to the extent possible, the identification of each Individual whose Unsecured PHI or ePHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used, or disclosed during or as a result of the Breach. Business Associate shall also provide Covered Entity with at least the following information: a description of the Breach, including the date of Breach and the date of discovery of the Breach, if known; a description of the types of Unsecured PHI or ePHI involved in the Breach; any steps Individuals should take to protect themselves from potential harm resulting from the Breach; a brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and any other information requested by Covered Entity related to the Breach. Business Associate shall promptly supplement such notice with additional information as it becomes available, even if such information becomes available after Individuals have been notified of the Breach.⁸

Business Associate agrees to cooperate with Covered Entity in the investigation of a Breach of Unsecured PHI or ePHI and to cooperate with and participate in, to the extent requested by Covered Entity, the notification of Individuals, the media, and the Secretary of any Breach of Unsecured PHI or ePHI.

In the event that: (i) a Breach of Unsecured PHI or ePHI occurs because of the action or inaction of Business Associate, its employees, agents, representatives, or Subcontractors; or (ii) a Breach occurs involving Unsecured PHI or ePHI in Business Associate's possession, or PHI or ePHI created, maintained, transmitted, or received by Business Associate or its employees, agents, representatives, or Subcontractors, Business Associate agrees that Covered Entity may, in its sole discretion, require Business Associate to provide such notification as may be required of Covered Entity by 45 CFR §§ 164.404, 164.406, and 164.408. Covered Entity shall have the right to review, direct, and approve or reject the contents or manner of such notification.

Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI or ePHI by Business Associate in violation of the requirements of this Agreement.

Tracking and Accounting of Disclosures. So that Covered Entity may meet its accounting obligations under the Privacy Rule, Business Associate agrees to document such disclosures of PHI or ePHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI or ePHI in accordance with 45 CFR § 164.528. For each Disclosure of PHI or ePHI that Business Associate makes to Covered Entity or to a third party that is subject to Disclosure under 45 CFR § 164.528, Business Associate will record (i) the Disclosure date, (ii) the name and (if known) address of the person or entity to whom Business Associate made the Disclosure, (iii) a brief description of the PHI or ePHI disclosed, and (iv) a brief statement of the purpose of the Disclosure. For repetitive disclosures which Business Associate makes to the same person or entity, including the Covered Entity, for a single purpose, Business Associate may provide (i) the Disclosure information for the first of these repetitive disclosures, (ii) the frequency, duration or number of these repetitive disclosures, and (iii) the date of the last of these repetitive disclosures. Business Associate will make this log of Disclosure information available to the Covered Entity within five (5) business days of the Covered Entity's request. Business Associate must retain the Disclosure information for the six-year period preceding Covered Entity's request for the Disclosure information.

Audit. For purposes of determining Business Associate's or Covered Entity's compliance with HIPAA, upon request of Covered Entity or the Secretary of Health and Human Services, Business Associate shall: (i) make its HIPAA policies and procedures, related documentation, records maintained, and any other relevant internal practices and books relating to the Use and Disclosure of PHI or ePHI, available to the Secretary of Health and Human Services or to

⁸ ARRA/HITECH Title XIII Subtitle D, Section 13402(b); 45 CFR § 164.410; 45 CFR § 164.504(e)(2)(ii)(C); 45 CFR § 164.314(a)(2)(i)(C).

Covered Entity and (ii) provide reasonable access to Business Associate's facilities, equipment, hardware and software used for the maintenance or processing of PHI or ePHI. Business Associate shall promptly notify Covered Entity of communications with the Secretary regarding PHI or ePHI and shall provide Covered Entity with copies of any information Business Associate has made available to the Secretary under this Section 2 of the Agreement.

Response to Subpoena. In the event Business Associate receives a subpoena or similar notice or request from any judicial, administrative or other party which would require the production of PHI or ePHI received from, or created for, Covered Entity, Business Associate shall promptly forward a copy of such subpoena, notice or request to Covered Entity to afford Covered Entity the opportunity to timely respond to the demand for its PHI or ePHI as Covered Entity determines appropriate according to its state and federal obligations.

Covered Entity's Obligations.

Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitation in its Notice of Privacy Practices; to the extent such limitation affects Business Associate's permitted Uses or Disclosures.

Individual Permission. Covered Entity shall notify Business Associate of changes in, or revocation of, permission by an individual to Use or disclose PHI or ePHI, to the extent such changes affect Business Associate's permitted Uses or Disclosures.

Restrictions. Covered Entity shall notify Business Associate of any restriction in the Use or Disclosure of PHI or ePHI to which Covered Entity has agreed, to the extent such restriction affects Business Associate's permitted Uses or Disclosures.

Requests. Covered Entity shall not request Business Associate to Use or disclose PHI or ePHI in any manner that would not be permissible under the Privacy Rule if used or disclosed by the Covered Entity.

Term and Termination; Effect of Termination.

Term. This Agreement shall take effect upon the Effective Date and shall remain in effect until all PHI or ePHI is returned to Covered Entity or destroyed in accordance with the terms of this Agreement.

Termination. If either party reasonably determines in good faith that the other party has materially breached any of its obligations under this Agreement, the nonbreaching party shall have the right to:

- (xix) Exercise any of its rights to reports, access and inspection under this Agreement;
- (xx) Require the breaching party to submit to a plan of monitoring and reporting, as the nonbreaching party may determine necessary to maintain compliance with this Agreement;
- (xxi) Provide the breaching party with a 30 day period to cure the breach; and/or
- (xxii) Terminate this Agreement immediately.

Before exercising any of these options, nonbreaching party Entity shall provide written notice to breaching party describing the violation and the action it intends to take.

Effect of Termination; Return or Destruction of PHI or ePHI. To the extent that Business Associate receives PHI, it will, upon termination, cancellation, expiration, or other conclusion of the Agreement, Business Associate shall, and shall ensure its Subcontractors that possess PHI or ePHI or data derived from PHI or ePHI ("Related Data") chose and fulfill one of the following options with respect to such PHI and Related Data:

- (xxiii) Return PHI or ePHI, and any Related Data, to Covered Entity in whatever form or medium that Business Associate received from or created on behalf of Covered Entity. In such case, no copies of such PHI or ePHI and Related Data shall be retained. PHI or ePHI and Related Data shall be returned as promptly as possible, but not more than thirty (30) days after the effective date of the conclusion of this Agreement or the underlying Agreement. Within such thirty (30) day period, Business Associate shall certify on oath in writing to Covered Entity that such return has been completed.
- (xxiv) Destroy the PHI or ePHI, and any Related Data, using technology or a methodology that renders the PHI or ePHI, or Related Data, unusable, unreadable, or undecipherable to unauthorized individuals as specified by HHS in its guidance at:

<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brguidance.html>. Acceptable methods for destroying PHI or ePHI or Related Data include: (A) paper, film, or other hard copy media shredded or destroyed in order that PHI or ePHI or Related Data cannot be read or reconstructed; and (B) electronic media cleared, purged or destroyed consistent with the standards of the National Institute of Standards and Technology (NIST). Redaction as a method of destruction of PHI or ePHI or Related Data is specifically excluded.

(xxv) If Business Associate believes that the return or destruction of PHI or ePHI or Related Data is not feasible, Business Associate shall provide written notification of the conditions that make return or destruction infeasible. If the Covered Entity agrees that return or destruction is not feasible, Business Associate shall extend the protections of this Agreement to PHI or ePHI and Related Data received from or created on behalf of Covered Entity, and limit further uses and disclosures of such PHI or ePHI and Related Data, for so long as Business Associate maintains the PHI or ePHI. If the Covered Entity does not agree based on industry standards that destruction is infeasible, the Business Associate must either return or destroy the PHI or ePHI.

Miscellaneous.

Automatic Amendment. Upon the effective date of any amendment to HIPAA, the Privacy Rule or the Security Rule promulgated by HHS with regard to PHI or ePHI or any other federal or Wisconsin law or regulation impacting the subject matter of this agreement, this Agreement shall automatically amend so that the obligations imposed on Business Associate remain in compliance with such regulations.

Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and Business Associate to comply with HIPAA.

Independent Contractor Status. The parties agree that in performing the Services and satisfying the obligations of this Agreement, Business Associate shall at all times be an independent contractor for Covered Entity and nothing in this Agreement shall be construed as creating an agency, employment, joint venture, partnership or other relationship. Covered Entity shall neither have nor exercise any control or direction over Business Associate. Business Associate shall avoid taking any action or making any representation or warranty whatsoever with respect to its relationship with Covered Entity which is inconsistent with its independent contractor status.

Conflicts. Any provision of the Attached Agreement that is directly contradictory to one or more terms of this Agreement ("Contradictory Term") shall be superseded by the terms of this Agreement only to the extent of the contradiction, as necessary for the parties' compliance with HIPAA and to the extent that it is reasonably impossible to comply with both the Contradictory Term and the terms of this Agreement.

Integration. This Agreement contains the entire understanding between the parties hereto relating to the subject matter herein and shall supersede any other oral or written agreements, discussions and understandings of every kind and nature, including any provision in any services agreement.

Waiver. No delay or failure of either party to exercise any right or remedy available hereunder, at law or in equity, shall act as a waiver of such right or remedy, and any waiver shall not waive any subsequent right, obligation, or default.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf.

WISCONSIN VETERANS HOME

By: 
Title: Secretary-Dept. of Veterans Affairs

Date: 4/15/16

BUSINESS ASSOCIATE

By: 
Title:

Date: 3/24/16

Attachment C:
**State Of Wisconsin
Department Of Veterans Affairs
Wisconsin Veterans Home - King**

**Contractor's Guidelines for Performing Work at the
Wisconsin Veterans Home – King**

I. Introduction

Safety is everyone's responsibility. That includes you and your staff members while you are working on our campus. We are very serious about safety here at King, and we expect all contractors and vendors to be also.

We expect all contractors and vendors to use proper safety procedures at all times while on our campus. We require you to have all the proper tools, PPE, signage, and safety equipment needed to accomplish your business here. Be alert to our signs, and **never** use alcohol on campus. Also, it is your responsibility to have any relevant MSDS sheets available in case of emergency or staff/member inquiries.

II. Agency Representative

- ✦ During normal hours of work (0700-1530) the primary agency contact is:
George Konkol: 715-258-4253
- ✦ For after hours and weekends, the primary agency contact is:
Security: 715-258-5586 extension 2220
- ✦ For extreme emergencies, Security is available 24 hours/day, 7 days/week:
715-258-5586 extension 2220

III. General Safety on the Job

- ✦ The WVH-King is committed to the safety of patients, staff and visitors. All department employees including Contractor's employees are expected to take safety on the job seriously and follow good safety practices. If there is any question regarding the safety of a job task, notify the supervisor or the project manager.
- ✦ The WVH-King have developed and implemented safety policy and procedures to provide a safe and secure environment, free from hazards and risk of injuries to patients, employees, visitors and contractors.
- ✦ At WVH-King safety is a team effort, and everyone working in the Institute must look out for themselves for unsafe practices and correct them or report them for correction.

IV. Contractor Check In

Upon the initial arrival the Contractor is required to check in at the Maintenance Building. During the check-in process a representative of the Buildings & Grounds Department and the Contractor will determine the frequency of future visits throughout the span of the project, provide personal Identification Badges, and necessary entrance keys to have access to their job location

V. Smoking & Tobacco Use

The WVH-King and its grounds are smoke and tobacco free. Do not smoke in any WVH-King buildings or tunnels, or in any vehicles on campus. There is smoking in limited and designated smoking areas. Ask the WVH-King Engineer for details.

Important: Never give smoking materials to any members! Many of them cannot safely smoke without nursing supervision, but this does not stop them from trying. Do not give a light to a member either.

VI. Carrying Concealed Weapons

Concealed carry is prohibited by employees and the public in all buildings of WVH-King. Concealed carry is not prohibited in vehicles driven on campus or parked in the parking lots. However, the weapon must be placed out of plain view from the exterior of the locked vehicle.

VII. Parking

Contractors and their employees must park in designated parking areas only. Only one vehicle will be allowed to park near the job site with prior approval from the Security staff. Violations may result in your vehicle being towed at your expense. **Obey the signs!** We do not consider contractors to be visitors, so don't park in the visitors spots.

VIII. Emergency Plans

We have various emergency plans for just about any contingency. Ask the Security staff for any of them that you might need.

IX. "Person Down" (not on a nursing unit)

Our members are not always the steadiest on their feet or in their wheelchairs. For that matter, if anyone happens to fall or needs some kind of assistance, dial **2222** from any campus phone (715-258-5586 ext. 2222 with your cell phone). You can also use the one of the **Code Blue** systems if it is close enough. This is a direct line to Security staff for emergencies. Stay with the person, but do not try to get them up. They may have a serious injury that could be made worse if they are moved. Encourage them to remain calm and in place until medical staff respond.

X. "Code Blue"

We have a "Code Blue" outdoor emergency call system on campus. It is a direct line to our Security staff at all times of the day or night. Once you press that red button, there is an open speaker for your hands-free use. There are four locations on campus. Look for the blue light at the top of the pole.

XI. Tunnel Transportation

We have an underground tunnel system on campus. It comes in handy at times, especially during the winter. You may use it as you need to. However, be aware that it is a very congested space with lots of traffic at certain times of the day. Make sure you are alert to other vehicles and people who may be walking, and always obey all traffic signs.

XII. State Property Use

The use of State of Wisconsin property such as tools, equipment, vehicles, computer equipment, phones, etc. is strictly controlled. **The best advice is to not do it!**

XIII. Member Relations

Financial dealings of any kind with our members are strictly prohibited. There are State of Wisconsin laws governing this prohibition that have very serious consequences.

Canvassing, peddling, selling, and soliciting on the grounds are authorized only by the WVH-King commandant. These are strictly controlled.

Do not accept any gifts or loans, or purchase any items from our members. Do not give our members anything, especially smoking materials.

The Wisconsin Department of Veterans Affairs is committed to providing and maintaining a work environment free from discrimination and harassment for all our members and our staff. Do not harass any member or staff person while you are at the WVH-King. This will not be tolerated at all.

We consider your conduct towards our members to be governed by the same standards we hold our staff to. We expect you to always treat our members gently, with dignity, and without coercion.

XIV. Ensuring Member Safety

Member safety is paramount. You must act to protect our members and others from contact with unsafe equipment and chemicals, access to hazardous work locations, and from elopement or unauthorized wandering.

If you feel that members or WVH-King staff are intruding into your work areas and creating an unsafe condition, you or your supervisor should contact the WVH-King Security Chief 715-258-5586 ext. 2220 immediately. Do not ever allow members access to your work areas or to any areas you consider to be unsafe.

You must always secure your tools, chemicals, equipment, and all hazardous products to keep them away from our members. Also, stay close to your vehicles or take the keys with you when you leave them around. Never leave them running and vacate the area.

XV. Privacy & Security (HIPAA)

The WVH-King is considered to be a "covered entity" in regards to the HIPAA privacy laws. That means that everyone on campus must comply with HIPAA requirements at all times. This includes all contractors and vendors doing business on campus. You are considered to be "Business Associates" which is defined in the HIPAA law as being responsible for complying with the law. **This is a very serious situation**, both for us and for you. Sanctions associated with HIPAA violations can be civil or criminal penalties, or both, and are regulated and imposed by federal authorities. These penalties are normally monetary in nature but can include imprisonment for serious violations. **And they apply to everyone who works on the campus.**

Never discuss any information regarding our members with other members, our staff, or your co-workers. Do not broadcast any such information over any radios you may be using. Never discuss any member information off-campus after hours. Even the fact that the members live here is considered to be protected health information.

If you need keys to do your job, they will be issued to you via use of our Key Watcher system, but you must adhere to our HIPAA rules. Let your WVH-King contract liaison know where you need to have access. Once you have the keys, guard them and their use closely. Return them to the Key Watcher system in the Security Building **every night before you leave**. Do not take them home. If you do, you can expect a call to return them immediately.

If you are issued keys, you will be responsible for them and their use. Lost or misplaced keys are considered a HIPAA security incident at the WVH-King and are serious matters. Do not loan keys to anyone, and do not provide access to any areas to anyone who is not authorized to be there.

XVI. Please Help Us Stay Safe!!

Please help us comply with all life safety and fire safety codes. We are under constant scrutiny from various federal and State agencies for our compliance with these codes, and for good reasons. If you are

doing work in our nursing halls and you do not comply with these codes in your work, we will suffer the consequences. It could result in a closure of one of our nursing homes, or worse, serious injuries or deaths. If you do not know the codes, our maintenance staff can assist you with them.

Of particular anxiety to us are penetrations through fire walls that are not properly closed up.

XVII. Signage

Appropriate signage required by code/regulation must be posted by the responsible contractor to ensure that the people are aware of the potential risk involving with trespassing.

XVIII. Workplace Setup

All work areas must be marked off with cones, tapes, barriers or other traffic diverters. More than 50% of the width of a hallway may never be blocked without making arrangements with the Buildings & Grounds Superintendent or his/her designee.

- ⚡ No impairments to the fire alarms, fire suppression or egress routes can be made without prior arrangements with Buildings & Grounds Superintendent.
- ⚡ Tools and materials must be safely secured or packaged when unattended. Items must not be left in a way that could injure staff, patient or visitors.
- ⚡ Equipment, tools and materials must also be safeguarded in such a manner to minimize the risk to everyone on grounds.
- ⚡ Patients, staff and public areas must be protected from dust, dirt and other construction related contamination. The use of non-combustible dust barrier may be required in some instances.

XIX. Utility Systems

The WVH-King depends on uninterrupted delivery of utilities to operate building life support equipment that is crucial to our daily operations. Any utility shut down must be coordinated with the Buildings & Grounds Superintendent or his/her designee. No Contractor shall turn off any utility valve, circuit or switch.

- ⚡ The Contractor is responsible for locating physically all underground utilities prior to beginning the excavation to avoid unplanned outages that can result from accidental damages.
- ⚡ Call the utility line locator that is responsible for your work area, and ask for the location and the voltage of underground utility lines and tell them when you are working in that area.
- ⚡ Advise co-workers about the digging operation and mark on your blueprints the exact location of the utility lines. Place warning signs along the route, if they are not already posted.
- ⚡ Always keep equipment, workers and materials well outside the minimum safety distance.

XX. Use of Potentially Hazardous/Toxic Substances

No Contractor or Servicing Agency will bring a hazardous substance to WVH-King without prior approval from the responsible Department Supervisor or Bureau Director. Contractors and service agencies must maintain copies of applicable SDS on site for the chemicals and materials they are using. The responsible Department Supervisors complete a review of the SDS prior to any product use to ensure product is used properly and all PPE, environmental conditions and reactivity conditions are met. Contractors are responsible for their own employee compliance.

XXI. Designated Entrance and Exit Routes for Contractor Work Activities

The Buildings & Grounds Superintendent or his/her designee shall define entrance and exit routes for Contractors that provides the least amount of interference with the buildings normal business activities. These routes will accommodate the safe transport of construction equipment/debris, construction

employees. No egress routes can be blocked or restricted without prior approval from the Buildings & Grounds Superintendent or his/her designee.

XXII. Security of Doors

Every individual is responsible for ensuring the job site is secure. You are responsible for:

- ✦ Not allowing another person to "tailgate" through an open door. Even if that person should have access; he/she will have a key.
- ✦ Not leaving doors unlocked or prop locked doors open.
- ✦ Ensuring the door is again secured when you leave.

XXIII. Fire Safety in General

- ✦ Coordinate with the owners representative prior to do any Hot Work. All contractors must fill out a hot work permit when this type of work is being performed. (Soldering, Welding, Torch Cutting & Grinding) etc
- ✦ Respond to fire drills.
- ✦ Follow Interim Life Safety Measures (ILSM's).
- ✦ Place ceiling tiles back in place at the end of each day's work when above the ceiling access was required. Each contractor needs to report any broken or damaged ceiling tiles to avoid a LSC violation.
- ✦ Seal fire rated wall penetration with UL approved system.
- ✦ Do not remove or temper with any fire protection or life safety equipment; including Smoke detectors, Strobes, Pull stations, Sprinklers & Fire extinguishers.
- ✦ Do not prop open fire rated or smoke barrier doors, especially stairwell doors.
- ✦ Do not tamper with the latch on fire rated doors (to prevent the door from latching).
- ✦ Do not store equipment or supplies in the corridor or the stairwells.
- ✦ A building will only be placed into bypass when all other alternatives have been looked into. We are only allowed to have a building in bypass for a total of four hours in a 24 hour period.

XXIV. Fire Wall Penetration

All fire & smoke barriers must be sealed when working in the WVH-King's building. Any cutting, opening, or otherwise penetrating fire and or smoke barrier walls must be sealed with appropriate, industry approved fire wall sealing system, such as Hilti Firestop Systems or equal. All such work shall be coordinated with the Agency Representative. Any penetrations found as a result of another contractors work and not repaired please report.

XXV. Confined Space Entry

A confined space has limited or restricted means for entry or exit, and it is not designed for continuous human occupancy. Confined spaces include, but not limited to underground vaults, tanks, storage bins, manholes, pits, silos, process vessels, and pipelines. If you encounter one of these, or an environment similar; please ensure that "Confined Space Entry" procedures are follow through. If you have a question, please contact the Agency Representative. Contractors are responsible for their own employee compliance.

XXVI. Hazardous Materials Spills

If you discover a spill believed to be hazardous or questionable – contact the Agency Representative

XVII. Traffic Control

When project work involves motorized and pedestrian traffic control the State Project Coordinator, the Contractor and the Owner's Representative will determine the safest routes and procedures to facilitate this traffic. Contractor will provide flagman to control traffic. Restriction of any roadway on WVH-King must be coordinated in advance with the Agency Representative.

**Contractor's Guidelines for Performing Work at the
Wisconsin Veterans Home – King**

Contractor's Acknowledgement

I hereby acknowledge that:

- I have read and understand the contents of these guidelines.
- I am responsible for my staff and my safety.

Signed: Enid Glenn

Name: Enid Glenn

Title: Deputy Administrator, DVR

Company: DWD / Div. of Vocational Rehab.