

OCT 01 2012

17996



EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R10/4-06)

Received

Instructions for completing the EDS and the Contract process.

OCT 04 2012

DOA Contracts

1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

1. EDS Number: A70-3-070398
2. Date prepared: 8/10/2012

3. CONTRACTS & LEASES

Professional/Personal Services ☐ Contract for procured Services
☒ Grant ☐ Maintenance
☐ Lease ☐ License Agreement
☐ Attorney ☐ Amendment#
☐ MOU ☐ Renewal #
☐ QPA ☐ Other

FISCAL INFORMATION

4. Account Number: 61900-30700.573100
5. Account Name: ISDH DOAg Fund
 6. Total amount this action: \$61,553.00
7. New contract total: 61,553.00
 8. Revenue generated this action: \$0.00
9. Revenue generated total contract: \$0.00

10. New total amount for each fiscal year:

Year 2013 \$46,164.00
 Year 2014 \$15,389.00
 Year \$
 Year \$

TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year): 10/1/2012
 12. To (month, day, year): 9/30/2013
 13. Method of source selection: ☒ Negotiated
☐ Bid/Quotation ☐ Emergency ☐ Special Procurement
☐ RFP# ☐ Other (specify)

35. Will the attached document involve data processing or telecommunications systems(s)? Yes: IOT or Delegate has signed off on contract

36. Statutory Authority (Cite applicable Indiana or Federal Codes):
 (PUBLIC LAW 111-80), 7 CFR, PART 246

37. Description of work and justification for spending money. (Please give a brief description of the scope of work included in this agreement.)

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111-80) provides funds for WIC State agencies to build upon and expand breastfeeding peer counseling efforts. The goal of the funding is to incorporate USDA's Peer Counseling Loving Support™ Model into WIC clinic core services so that participant breastfeeding rates increase. The vendor must support the Indiana WIC Breastfeeding Peer Counselor Program within the vendor's service area. The contract period is October 1, 2012 through September 30, 2013 in the amount of \$61,552.00

38. Justification of vendor selection and determination of price reasonableness:

The State contracts with local agency WIC sponsors to provide peer counseling services within the vendor's service area. Funds are awarded based on business proposals.

39. If this contract is submitted late, please explain why: (Required if more than 30 days late.)

RECEIVED

OCT 10 2012

OAG-ADVISORY

40. Agency fiscal officer or representative approval EM	41. Date Approved 9/12/12	42. Budget agency approval 	43. Date Approved 10/6/12
44. Attorney General's Office approval KG	45. Date Approved 10-10-12	46. Agency representative receiving from AG 	47. Date Approved

REQUISITION

Ship To: State Department of Health
Section 2-C
2 N MERIDIAN ST
INDIANAPOLIS IN 46204

Bill to: State Department of Health
Section 2-C
2 N MERIDIAN ST
INDIANAPOLIS IN 46204

Requisition No. 0000019053	Date 08/23/2012	Required Date	Page 1 of 1
Fund/Account:	61900 / 573100		
Dept Number:	195070		
Project Number:	400361014430013		
Requisition Number:	0000019053		
Requestor:	GALLEN Allen, Gary-400		
Agency Number:	00400 Department of Health		
Facility:			

MUST COMPLETE FOR ICPR

☐ Print REQ
☐ Streamline Eligible

Line	Item	Description	Quantity	UOM	Unit Price	Ext Amt
The State contracts with local agency WIC sponsors to provide peer counseling services within the vendor's area.						
1-1		Grant WPCG 265-2, 10/1/12-9/30/13	1.0000	LO	61,553.0000	61,553.00

Vendor: 0000065240 MEMORIAL HEALTH SYSTEM INC

<< The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111-80) provides funds for WIC State agencies to build upon and expand breastfeeding peer counseling efforts. The goal of the funding is to incorporate USDA's Peer Counseling Loving Support Model into WIC clinic core services so that participant breastfeeding rates increase. The vendor must support the Indiana WIC Breastfeeding Peer Counselor Program within the vendor's service area.

Contract date: 10/1/12-9/30/13

Contract amount: \$61,553.00

EDS# A70-3-070398

Fund: 61900

Account: 573100

Program: 30700

Project code: 400361014430013

Activity code: ALL0000 >>

The following UN/CEFACT Unit of Measure
Common Codes are used in this document:
LO Lot

Requisition Total \$ 61,553.00

Requestor Signature	I certify that the item[s] requested is [are] necessary for the operation of this State Agency.	
	Printed Name of Agency Head or Authorized Employee	Authorized Signature

8

GRANT AGREEMENT
EDS # A70-3-070398

61900-573100-4003610144300
WPCG 265-2

This Grant Agreement, entered into by and between the **Indiana State Department of Health** (the "State") and **Memorial Health System, Inc.** (the "Grantee"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Purpose of this Grant Agreement

The purpose of this Grant Agreement is to enable the State to award a grant from the State of Indiana's Federally Funded **W.I.C. Peer Counselor Grant Fund** of up to **\$61,553** to the Grantee for eligible costs of the project (the "Project") or services as described in Attachments A and B of this Grant Agreement, which is attached hereto and incorporated herein. The funds shall be used exclusively in accordance with the provisions contained in this Grant Agreement.

2. Term

This Grant Agreement shall commence on **October 1, 2012**, (the Commencement Date) and shall remain in effect through **September 30, 2013**, (the Expiration Date). In no event shall payments be made for work done or services performed before the Commencement Date or after the Expiration Date.

3. Design and Implementation of Project

The Grantee shall be solely responsible for the proper design and implementation of the Project as described in the grant application and in Attachments A and B. The Grantee agrees to complete the Project in accordance with the plans and specifications contained in its application which is on file with the State and is incorporated by reference. Modification of the Project shall require prior written approval of the State.

4. Monitoring Reviews by the State

The State may conduct an on-site monitoring review of the Project. The monitoring review may include and consider any or all of the following:

- A. Whether Project activities are consistent with those set forth in Attachments A and B, the grant applications, and the terms and conditions of the Grant Agreement.
- B. A complete, detailed analysis of actual state, local and/or private funds expended to date on the Project and conformity with the amounts for each budget line item as set forth in Attachments A and B.
- C. A detailed listing of all Project costs by project budget line item which are accrued yet unpaid, if any.

A written evaluation as to the Grantee's timely progress in project management, financial management and control systems, procurement systems and methods, and performance relative to timely submission of project reports.

5. Payment of Grant Funds by the State

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

- A. This Grant Agreement must be fully executed.
- B. All items or documents required by Attachments A and B must be submitted to and approved by the State.
- C. Any other grant conditions as specified in Attachments A and B must be met to the State's satisfaction.
- D. The State may require evidence furnished by the Grantee that substantial progress has been made toward completion of the Project prior to making the first payment under this Grant. All payments are subject to the State's determination that the Grantee's performance to date conforms to the Project as approved, notwithstanding any other provision of this Grant Agreement.
- E. If advance payment of a portion of the grant funds is permitted by statute, and the State agrees to provide such advance payment, it shall be made only upon submission of a proper claim setting out the intended purposes of those funds. After such funds have been expended, Grantee shall provide State with a reconciliation of those expenditures.
- F. If this Grant Agreement is terminated by either party prior to the Expiration Date set forth in Paragraph 2 of this Grant Agreement, the State may promptly conduct an on-site monitoring of the Project and complete a Project monitoring report.
- G. Failure to complete the Project and expend State, local and/or private funds in accordance with this Grant Agreement may be considered a material breach, and shall entitle the State to impose sanctions against the Grantee including, but not limited to, suspension of all grant payments, and/or suspension of the Grantee's participation in State grant programs until such time as all material breaches are cured to the State's satisfaction. Sanctions may also include repayment of all State funds expended that are not in the scope of this Project or the Budget.
- H. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Grantee in writing unless a specific waiver has been obtained from the Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Grant except as permitted by IC 4-13-2-20 or by the statute authorizing this Grant.

6. Audits and Maintenance of Records

- A. Following the termination of this Grant Agreement, the Grantee shall secure an audit of grant funds. An independent public accountant or certified public accountant (Auditor) or the State Board of Accounts shall conduct this audit in accordance with Generally Accepted Government Auditing Standards ("GAGAS") and any other applicable audit guidelines or any standards specified by the State or the federal government. These standards include Indiana Code 5-11-1 and the Indiana State Board of Accounts publication "Guidelines for the Examination of the Entities Receiving Financial Assistance from Governmental Sources." The federal Office of Management and Budget (OMB) Circular A-133 (Audits of Institutions of Higher Education and Other Non-Profit Organizations) may also apply. The Grantee must submit the audit either thirty (30) days after receipt of the Auditor's report(s) or nine (9) months after the close of the audit period, whichever is earlier, unless the ISDH Audit Section provides a written waiver. The Grantee agrees to provide a readable copy, or original of all audits secured by the Grantee to meet this provision. The Grantee must provide a copy of its Audit Report to the Indiana State Department of Health, 2 North Meridian Street, Audit Section 2C99, Indianapolis, Indiana 46204. Grantee agrees to provide the Indiana State Board of Accounts an original of all financial and compliance audits and the original Grantee's "Entity Annual Report" (Form E-1). Should the Grantee be an agency of the State of Indiana or a local or quasi-governmental agency, the requirement to submit the Grantee's "Entity Annual Report" (Form E-1) to the State Board of Accounts is waived.
- A. The Grantee's audit shall be an audit of the actual entity or the distinct portion thereof that performs the functions of the Grant Agreement, and not of a parent, member, or subsidiary corporation of the Grantee, unless the Indiana State Board of Accounts or State requests an expanded audit. The audit shall include a statement from the Auditor that the Auditor has reviewed this Grant Agreement and that the Grantee is not out of compliance with the financial aspects of this Grant Agreement.
- B. The State and the Indiana State Board of Accounts reserve the right to approve any auditor who conducts the audit. If the State requests, the Grantee shall require its sub-grantees to secure audits in accordance with subparagraph A, and to timely file all reports required by the Indiana State Board of Accounts.
- C. Grantee shall maintain books, records, documents, including but not limited to statistical reports, program reports, payroll records, banking records, accounting records, and purchase orders that are sufficient to document Grantee's program and financial activities under this grant and Grantee's claims for reimbursement as required by law, and any other evidence which, according to generally accepted accounting procedures, identifies costs attributable to the services specified on Attachments A and B of this Grant Agreement and any other documents required under the terms of this Grant Agreement. The Grantee shall comply with the cost principles set forth in OMB Circular A-122. The Grantee shall maintain a written cost allocation plan identifying procedures for attributing costs to each component code and service.

The State may require more restrictive fiscal accountability, beginning upon written notice, if the State determines the Grantee is financially unstable, has a history of poor accountability, or has a management system that does not meet the standards required by the State of Indiana or the United States Government.

- D. The Grantee must use internal controls that assure: 1) the reliability of financial information and records; 2) effectiveness and efficiency of operations; 3) proper execution of management's objectives; and 4) compliance with laws and regulations. Sufficient internal controls include but are not limited to segregation of duties and safeguarding controls over cash, other assets, and information processing.
- E. Upon written demand by the State, the Grantee will repay the State all money paid during any period of time when an audit showed inadequate fiscal documentation.
- F. If the State finds an audit exception, it may set off the amount against current or future allowable invoices, demand a cash payback, withhold payment of current invoices, or avail itself of any combination of the above remedies.

7. Project Budget and Budget Modification

The approved Project Budget is set forth as Attachments A and B of this Grant Agreement. The Grantee shall not spend more than the amount for each line item, as described in the Budget, without the prior written consent of a duly authorized representative of the State, nor shall the Project costs funded by this Grant Agreement and those funded by the local and/or private share be amended without the prior written consent of the State.

8. Statutory Authority of Grantee

The Grantee expressly represents and warrants to the State that it is statutorily eligible to receive these monies and it expressly agrees to repay all monies paid to it under this Grant, should a legal determination of its ineligibility be made by any court of competent jurisdiction.

9. Use of Grant Funds by Grantee

The funds received by the Grantee pursuant to this Grant Agreement shall be used only to **provide funds for WIC State agencies to build upon and expand breastfeeding peer counseling efforts** as described fully in Attachments A and B and for no other purpose.

10. Compliance with Laws

A. The Grantee shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Grant shall be reviewed by the State and the Grantee to determine whether the provisions of this Grant require formal modification.

B. The Grantee and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC 4-2-6, *et seq.*, IC 4-2-7, *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Grantee is not familiar with these ethical requirements, the Grantee should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Grantee or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Grant immediately upon notice to the Grantee. In addition, the Grantee may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44-1-3, and under any other applicable laws.

C. The Grantee certifies by entering into this Grant that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The Grantee agrees that any payments currently due to the State may be withheld from payments due to the Grantee. Additionally, further work or payments may be withheld, delayed, or denied and/or this Grant suspended until the Grantee is current in its payments and has submitted proof of such payment to the State.

D. The Grantee warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Grantee agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Grant.

E. If a valid dispute exists as to the Grantee's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Grantee, the Grantee may request that it be allowed to continue, or receive work, without delay. The Grantee must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC 5-17-5.

F. The Grantee warrants that the Grantee and its subgrantees, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Grant and grounds for immediate termination and denial of further work with the State.

G. The Grantee affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

H. As required by IC 5-22-3-7:

(1) The Grantee and any principals of the Grantee certify that:

(A) the Grantee, except for de minimis and nonsystematic violations, has not violated the terms of:

(i) IC 24-4.7 [Telephone Solicitation Of Consumers];

(ii) IC 24-5-12 [Telephone Solicitations]; or

(iii) IC 24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) the Grantee will not violate the terms of IC 24-4.7 for the duration of the Grant, even if IC 24-4.7 is preempted by federal law.

(2) The Grantee and any principals of the Grantee certify that an affiliate or principal of the Grantee and any agent acting on behalf of the Grantee or on behalf of an affiliate or principal of the Grantee

(A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC 24-4.7 for the duration of the Grant, even if IC 24-4.7 is preempted by federal law.

11. Drug-Free Workplace Certification

The Grantee hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Grantee will give written notice to the State within ten (10) days after receiving actual notice that the Grantee, or an employee of the Grantee in the State of Indiana has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of grant payments, termination of the Grant and/or debarment of grant opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total Grant amount set forth in this Grant Agreement is in excess of \$25,000.00, Grantee hereby further agrees that this Grant Agreement is expressly subject to the terms, conditions and representations of the following Certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all grants with and grants from the State of Indiana in excess of \$25,000.00. No award of a grant shall be made, and no grant, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Grantee and made a part of the Grant Agreement as part of the Grant documents.

The Grantee certifies and agrees that it will provide a drug-free workplace by:

A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and

B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Grantee's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and

C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify the Grantee of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; and

D. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction; and

E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

12. Employment Eligibility Verification

The Grantee affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The Grantee affirms under the penalties of perjury that he/she/it has enrolled and is participating in the E-Verify program as defined in IC 22-5-1-7.3. The Grantee agrees to provide documentation to the State that he/she/it has enrolled and is participating in the E-Verify program. Additionally, the Grantee is not required to participate if the Grantee or is self-employed and does not employ any employees.

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

13. Funding Cancellation

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

14. Information Technology Accessibility Standards

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

15. Nondiscrimination

Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Grantee covenants that it shall not discriminate against any employee or applicant for employment relating to this Grant with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Grantee certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

The Grantee understands that the State is a recipient of federal funds, and therefore, where applicable, Grantee and any subgrantees agree to comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246.

16. Notice to Parties

Whenever any notice, statement or other communication is required under this Grant, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Indiana State Department of Health
ATTN: Contract and Audit Section
2 North Meridian Street, Section 2-C
Indianapolis, IN 46204

B. Notices to the Grantee shall be sent to:

Memorial Health System, Inc.
ATTN: Margo DeMont, Ph.D.
Executive Director
100 E. Wayne St., Suite 500
South Bend, IN 46601

C. As required by IC 4-13-2-14.8, payments to the Grantee shall be made via electronic funds transfer in accordance with instructions filed by the Grantee with the Indiana Auditor of State.

17. Order of Precedence

Any inconsistency or ambiguity in this Grant Agreement shall be resolved by giving precedence in the following order: (A) Grant Agreement, (B) Attachment(s) prepared by the State, and (C) Grantee's Grant Application. All attachments, and all documents referred to in this paragraph are hereby incorporated fully by reference.

18. Renewal

This Grant Agreement may be renewed under the same terms and conditions subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC 5-22-17-4. The term of the renewed Grant Agreement may not be longer than the term of the original Grant Agreement.

19. Termination for Convenience

This Grant Agreement may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in the best interest of the State. Termination shall be effected by delivery to the Grantee of a Termination Notice, specifying the extent to which such termination becomes effective. The Grantee shall be compensated for completion of the Project properly done prior to the effective date of termination. The State will not be liable for work on the Project performed after the effective date of termination. In no case shall total payment made to the Grantee exceed the original grant.

20. Access To Records

The Grantee and its subgrantees shall maintain all books, documents, papers, accounting records, and other evidence (Records) pertaining to all costs incurred under this Grant Agreement for inspection by the State or its authorized representatives. Copies of the Records shall be furnished at no cost to the State if requested. The Grantee and its subgrantees shall make all Records available at their respective offices at all reasonable times during the Grant Agreement period and for three (3) years from the date of final payment under the Grant Agreement or longer if an audit has been completed and all audit exceptions have not been cleared by the State.

21. Additional Payment Terms

- A. The State disburses grant funds on a cost reimbursement basis. Actual expenditures of authorized costs will be reimbursed monthly by the State upon receipt of duly executed invoices from the Grantee. Invoices are due by the 20th day after the end of each month.
- B. All accounts will be closed sixty (60) days after the Expiration Date of this Grant Agreement. Any invoice submitted after sixty (60) days will not be reimbursed by the State.
- C. No expenses for travel will be reimbursed unless specifically permitted under the scope of services or consideration provisions. Expenditures made by the Grantee for travel will be reimbursed at the current rate paid by the State and in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed and approved by the State for availability of funds and for appropriateness per Circular guidelines.

22. Amendments

No alteration or variation of the terms of this Grant Agreement shall be valid unless made in writing and signed by the parties hereto. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto. Any alterations or amendments, except a change between budget categories which requires the prior written consent of a duly authorized representative of the State, shall be subject to the contract approval procedure of the State.

23. Authority To Bind

The signatory for the Grantee represents that he/she has been duly authorized to execute this Grant Agreement on behalf of the Grantee and has obtained all necessary or applicable approvals to make this Grant Agreement fully binding upon the Grantee when his/her signature is affixed, and accepted by the State.

24. Confidentiality Of State Information

The Grantee understands and agrees that data, materials, and information disclosed to the Grantee may contain confidential and protected information. The Grantee covenants that data, material and information gathered, based upon or disclosed to the Grantee for the purpose of this Grant Agreement, will not be disclosed to or discussed with third parties without the prior written consent of the State.

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

25. Disputes

- A. Should any disputes arise with respect to this Grant Agreement, the Grantee and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The Grantee agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Grant Agreement that are not affected by the dispute. Should the Grantee fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Grantee as a result of such failure to proceed shall be borne by the Grantee.
- C. If a party to the Grant Agreement is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:
 - 1. The parties agree to resolve such matters through submission in writing of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Grantee and the State within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.
 - 2. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Grantee of one or more invoices not in dispute in accordance with the terms of this Grant Agreement will not be cause for Grantee to terminate this Grant Agreement, and the Grantee may bring suit to collect these amounts without following the disputes procedure contained herein.

26. Federal Funding Information and Compliance

- | | |
|-------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| a) C.F.D.A. Title – Special Supplement
Food Program for Women, Infants
and Children | d) Award No. - 21N700013 |
| b) C.F.D.A No. 10.557 | e) Award Year – 10/1/11 through 9/30/13 |
| c) Award Name - Women, Infants
and Children | f) Federal Agency - U.S. Department of
Agriculture, Food and Nutrition Service |

In grants funded by the United States Department of Health and Human Services, the Grantee agrees to comply with the provisions of the Code of Federal Regulations (CFR) Title 45 Parts 74, 92, and 96, where applicable.

27. Federal Funds Disclosure

Any of the Grantee's statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs supported in whole or in part by grant funds must state a) the percentage of the total costs of the program or project with federal financing; b) the amount of federal funds for the project or program; and c) the percentage and dollar amount of the total costs of the project or program financed by nongovernmental sources. "Nongovernmental sources" means sources other than state and local governments and federally recognized Indian tribes.

28. Federal Lobbying Requirements

- A. The Grantee certifies that to the best of its knowledge and belief that no federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Grant Agreement, contract, loan, or cooperative agreement, the Grantee shall complete and submit "Disclosure Form to Report Lobbying" in accordance with its instructions.
- C. The Grantee shall require that the language of subparagraphs a) and b) be included in the language of all subgrants and that all subgrantees shall certify and disclose accordingly.

29. Federal Funding Accountability and Transparency Act

FEDERAL FUNDING ACCOUNTABILITY and TRANSPARENCY ACT of 2006:

Public Law 109-282, the Federal Funding Accountability and Transparency Act of 2006 as amended (FFATA), requires full disclosure of all entities and organizations receiving Federal funds including grants, contracts, loans and other assistance and payments through a single publicly accessible Web site, USASpending.gov. The Web site includes information on each Federal financial assistance award and contract over \$25,000, including such information as:

1. The name of the entity receiving the award
2. The amount of the award
3. Information on the award including transaction type, funding agency, etc.
4. The location of the entity receiving the award
5. A unique identifier of the entity receiving the award: and
6. Names and compensation of highly-compensated officers (as applicable)

Compliance with this law is primarily the responsibility of the Federal agency. However, two elements of the law require information to be collected and reported by recipients: 1) information on executive compensation when not already reported through the Central Contractor Registry; and 2) similar information on all sub-awards/subcontracts/consortiums over \$25,000.

For the full text of the requirements under the Federal Funding Accountability and Transparency Act of 2006, please review the following website:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f.s2590enr.txt.pdf

30. Governing Laws

This Grant Agreement shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

31. Indemnification

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

32. Independent Contractor

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

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

33. Licensing Standards

The Grantee, its employees and subgrantees shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Grantee pursuant to this Grant Agreement. The State will not pay the Grantee for any services performed when the Grantee, its employees or subgrantees are not in compliance with such applicable standards, laws, rules or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification or accreditation, the Grantee shall notify the State immediately and the State, at its option, may immediately terminate this Grant Agreement.

34. Ownership of Documents and Materials

All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the Grantee prior to execution of this Grant Agreement, but specifically developed under this Grant Agreement shall be considered "work for hire" and the Grantee transfers any ownership claim to the State and all such materials will be the property of the State. Use of these materials, other than related to Grant Agreement performance by the Grantee, without the prior written consent of the State, is prohibited. During the performance of this Grant Agreement, the Grantee shall be responsible for any loss of or damage to these materials developed for or supplied by the State and used to develop or assist in the services provided while the materials are in the possession of the Grantee. Any loss or damage thereto shall be restored at the Grantee's expense. The Grantee shall provide the State full, immediate, and unrestricted access to the work product during the term of this Grant Agreement.

35. Penalties/Interest/Attorney's Fees

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

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

36. Progress Reports

- A. The Grantee shall submit progress reports to the State upon request, unless specified otherwise in Attachments A and B. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule and that completion can be reasonably assured on the scheduled date.
- B. The failure to provide progress reports as requested by the State is considered a material breach of the Grant Agreement and shall entitle the State to impose sanctions against the Grantee. Sanctions may include, but are not limited to, suspension of all Grant Agreement payments, and/or suspension of the Grantee's participation in State contract programs until such time as all material breaches are cured to the State's satisfaction. Sanctions may also include repayment of all State funds expended for activities that are not in the scope of this project as set forth in Attachments A and B of this Grant Agreement.

37. Remedies Not Impaired

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

38. Security and Privacy of Health Information

If any final regulation or body of regulations relating to the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 ("Final HIPAA Regulations"), or any amendment or judicial or administrative interpretation of the Final HIPAA Regulations, prohibits, restricts, limits or materially and adversely affects either party's rights or obligations hereunder, the parties shall negotiate, in good faith, reasonable revisions to this Grant Agreement.

The purpose of the negotiations shall be to revise the Grant Agreement so that the affected party can act in accordance with such Final HIPAA Regulations, or amendment or judicial or administrative interpretation thereof, and avoid or mitigate such prohibition, restriction, limitation or material and adverse effect.

If the parties fail to agree to such revisions within forty-five (45) days after written notice from the affected party requesting negotiations under this paragraph, this Grant Agreement shall terminate. If so terminated the Grantee shall return or destroy all protected health information received from, created or received by the Grantee on behalf of the State. The Grantee shall retain no copies of such information in any form if feasible. If not feasible, the Grantee bears the responsibility of ensuring that the protected health information is maintained in a secure and confidential manner.

39. Severability

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

40. Taxes

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

41. Waiver of Rights

No right conferred on either party under this Grant Agreement shall be deemed waived, and no breach of this Grant Agreement excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Grant Agreement shall be construed to operate as a waiver of any rights under this Grant Agreement or of any cause of action arising out of the performance of this Grant Agreement, and the Grantee shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Grantee's negligent performance of any of the services furnished under this Grant Agreement.

42. State Boilerplate Affirmation Clause

I swear or affirm under the penalties of perjury that I have not altered, modified or changed the State's Boilerplate clauses (as defined in the 2011 OAG/DOA *Professional Services Contract Manual*) in any way except for the following clauses which are named below:

Access to Records
Audits and Maintenance of Records
Order of Precedence
Progress Reports
Security and Privacy of Health Information

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the Grantee, or that he/she is the properly authorized representative, agent, member or officer of the Grantee, that he/she has not, nor has any other member, employee, representative, agent or officer of the Grantee, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Grant other than that which appears upon the face of this Grant.

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

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

Accepted By:


MARGOT DEMONT, PH.D. ~~Jeffrey P. Costello~~
EXECUTIVE DIRECTOR ~~Chief Financial Officer~~
MEMORIAL HEALTH SYSTEM, INC.

DATE: 9/7/12

Certification of Funds:


ERIC MILLER
BUDGET DIRECTOR
DIVISION OF FINANCE
OPERATIONAL SERVICES COMMISSION
INDIANA STATE DEPARTMENT OF HEALTH

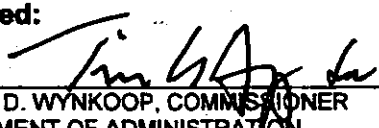
DATE: 9/12/12

Recommended and Approved By:


SEAN M. KEEFER
CHIEF OF STAFF
INDIANA STATE DEPARTMENT OF HEALTH

DATE: 9/13/12

Approved:


ROBERT D. WYNKOOP, COMMISSIONER
DEPARTMENT OF ADMINISTRATION
STATE OF INDIANA

DATE: 10/10/12

Approved:


ADAM M. HORST, DIRECTOR
OFFICE OF MANAGEMENT and BUDGET
STATE OF INDIANA

DATE: 10/9/12

Approved as to Form and Legality:


GREGORY F. ZOELLER
ATTORNEY GENERAL OF INDIANA

DATE: 10-10-12

ATTACHMENT A

Budget Summary

Grant Name	FY 2013 - USDA WIC Breastfeeding Peer Counselor
Local Agency	MEMORIAL HEALTH SYSTEM INC
Caseload	1066
FTE	2
Participants Per FTE	533
Total Proposed Amount	\$61,553.00

Budget Area	Amount
Fringe	\$13,984
Salaries	\$46,513
Travel	\$956
Total	\$61,553

The Grantee supports the ISDH WIC Breastfeeding Peer Counselor Program within the Grantee's service area. These funds enable Indiana WIC to maintain an effective breastfeeding peer counselor program. Combining peer counseling with the ongoing breastfeeding promotion in WIC agencies has the potential to influence breastfeeding rates among WIC participants and increase breastfeeding duration rates.

Attachment B

Allowable Costs for Breastfeeding Peer Counseling Funds

The table below helps to identify allowable breastfeeding peer counseling costs.*

NSA = Nutrition Services and Administration; IBCLC = International Board Certified Lactation Consultant

Item or Service	Allowable Costs	Comments
Durable Goods and Space		
Furniture, computers/laptops, and office equipment used to provide peer counseling services and training	Yes	
Cell/smartphones, pagers, and answering machines for contacts between peer counselors and mothers	Yes	
Portable baby scales for peer counselors to weigh infants outside of the WIC clinic	Yes. Adequate training and supervision of the peer counselor by an IBCLC or other lactation expert and policies surrounding the use of scales and their purpose must be in place.	NSA funds may be used to purchase scales for use by staff other than peer counselors.
Incentives and Educational Materials to Promote Breastfeeding		
Breastfeeding educational materials for mothers such as pamphlets and DVDs	No	NSA funds may be used for this purpose.
Breast pumps and breastfeeding aids for mothers	No	NSA funds may be used for this purpose.
Breast pumps and breastfeeding aids for demonstration purposes by peer counselors	Yes	
Incentive items distributed to WIC participants to encourage breastfeeding	No	NSA funds may be used for this purpose.
Personnel and Compensation		
Salaries and compensation for peer counselors, designated peer counselor	Yes	

Allowable Costs for Breastfeeding Peer Counseling Funds

Item or Service	Allowable Costs	Comments
coordinators, and referral experts		
Salaries and compensation for International Board Certified Lactation Consultants (IBCLCs)	<p>Yes, BFPC funds may be used to hire IBCLCs to provide oversight/management of peer counseling programs and/or supervision, mentoring and referral expertise for peer counselors.</p> <p>BFPC funds may also be used to pay for IBCLC time if a peer counselor refers a WIC mother to an IBCLC for consultation outside of the peer counselor's scope of practice. The IBCLC may be compensated using BFPC funds if the mother continues to be supported by the peer counselor and remains part of the peer counselor's caseload.</p>	<p>BFPC funds cannot be used to disproportionately hire lactation management experts versus peer counselors. NSA funds may be used to strengthen general IBCLC breastfeeding expertise in WIC.</p> <p>NS funds must be used for IBCLC consultations for WIC mothers who are not referred by peer counselors and are not part of a peer counselor's caseload.</p>
Salaries and compensation for dual-role staff; e.g., part-time WIC Nutrition Assistant and part-time peer counselor	<p>Yes, BFPC funds may be used for the portion of time spent as peer counselor. The "dual-role" staff must meet the definition of peer counselor in the <u>Loving Support Model</u>, including being available to participants outside of regular WIC hours.</p>	<p>Definition of Peer Counselor:</p> <ul style="list-style-type: none"> • Paraprofessional (see <u>Loving Support Model</u> for definition) • Recruited and hired from target population • Available to WIC clients outside usual clinic hours and outside the WIC clinic environment
Males as Breastfeeding Peer Counselors	<p>No. The definition of peer counselor in the <u>Loving Support Model</u> is based on research demonstrating the benefit of hiring peer counselors from WIC's target population of WIC-eligible women.</p>	<p>Men can be valuable members of breastfeeding promotion and support activities in WIC, such as providing father-led support groups and other activities to support breastfeeding mothers and families. However, components and activities that are outside of those defined by the <u>Loving</u></p>

Allowable Costs for Breastfeeding Peer Counseling Funds

Item or Service	Allowable Costs	Comments
		<u>Support Model</u> must be funded through the regular NSA grant or other sources.
Recruitment of peer counselors and related staff	Yes	
Staffing and expenses related to breastfeeding hotlines and call centers.	Yes. BFPC funds may be used to hire peer counselors to answer calls to a WIC breastfeeding hotline if the peer counselor meets the definition of peer counselor and receives the appropriate training and supervision as outlined in the <u>Loving Support Model</u> . Other expenses related to the hotline/call center such as rent, phone lines, equipment, are allowable for any portion of those expenses that are for the purpose of a peer counselor providing participant contacts through the hotline/call center.	
Staff Training and Resources		
Travel for training of peer counselors and peer counseling staff/managers	Yes	
Travel for home and hospital visits by peer counselors	Yes	
Continuing education for IBCLCs	Yes, if it relates to peer counseling programs; e.g., managing, mentoring, serving as a referral	
Breastfeeding resources for peer counselors and peer counseling coordinators/supervisors	Yes, if the resources are related to peer counseling; e.g., training materials for peer counselors	
Breastfeeding resources for WIC staff not related to peer counseling	No	NSA funds may be used to purchase general breastfeeding resources for WIC staff.

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Allowable Costs for Breastfeeding Peer Counseling Funds

Item or Service	Allowable Costs	Comments
Training and coursework for peer counselors to become IBCLCs or certified lactation counselors (CLCs)	Yes. The research recommends that peer counselors be provided career path options; e.g., training/experience to become senior level peer counselors; advanced training to become lactation consultants, etc.	The priority use of BFPC funds is to hire and train peer counselors to provide breastfeeding peer counseling services to WIC participants. FNS would not expect to see State agency BFPC implementation plans heavily focused on training and coursework for peer counselors to become IBCLCs or CLCs.
CLC renewal fees	Yes. See above.	See above.
IBCLC exam fees	No	At the WIC State agency's discretion, NSA funds may be used for IBCLC exam fees and/or association membership fees. The State agency must determine if it is necessary and of benefit to the WIC Program for the person in a particular job position to have the certification. SAs must also determine whether or not the cost fits within its WIC NSA grant budget.
IBCLC Association membership fee	No	
Peer Counseling Program Advertising and Promotion		
Pamphlets and similar materials to promote the peer counseling program	Yes	
Media campaigns; e.g., bus placards, to advertise breastfeeding peer counseling programs	Yes	FNS would not expect to see a large portion of the BFPC funds spent on advertising the program at the expense of direct services to participants BFPC funds may not be used for ads that promote breastfeeding in general—NSA funds may be used for those purposes.
T-Shirts, buttons, and similar	Yes	

Allowable Costs for Breastfeeding Peer Counseling Funds

Item or Service	Allowable Costs	Comments
Items that identify peer counselors		
Miscellaneous		
Second nutrition education contacts	No. BFPC funds are for activities that are in addition to current required WIC activities.	NSA funds provide for at least two nutrition education contacts; therefore, BFPC funds may not be used for the "second" contact. In addition, the 1/6 th nutrition education requirement and breastfeeding target must be met with regular NSA funds.
Childcare	No	
Cribs or other materials and equipment for infants of peer counselors who bring their babies to work	No	
Monitoring and Tracking of Program Effectiveness	Yes. BFPC funds may be used to monitor and track program components; e.g., contacts, referrals, training, to determine effectiveness and where improvements are needed. However, evaluation studies may not be paid for using BFPC funds.	
Peer counseling services to non-WIC participants	In general, no. Peer counselors should refer WIC-eligible women to WIC to apply for WIC benefits. Peer counselors should refer women who are not WIC-eligible to appropriate non-WIC resources.	In situations where both non-WIC participants and WIC participants are together; e.g., hospitals, peer counselors may initially see both. However, on-going peer counseling contacts with non-WIC participants is not an allowable cost.

*Updated 03/01/2012. This is not an exhaustive list of allowable costs. Refer to the FNS Regional Office for questions about allowable costs.

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