

Division of Purchased Services



*Department of Health
and Human Services*

*Maine People Living
Safe, Healthy and Productive Lives*

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POLICY & PROCEDURES MANUAL

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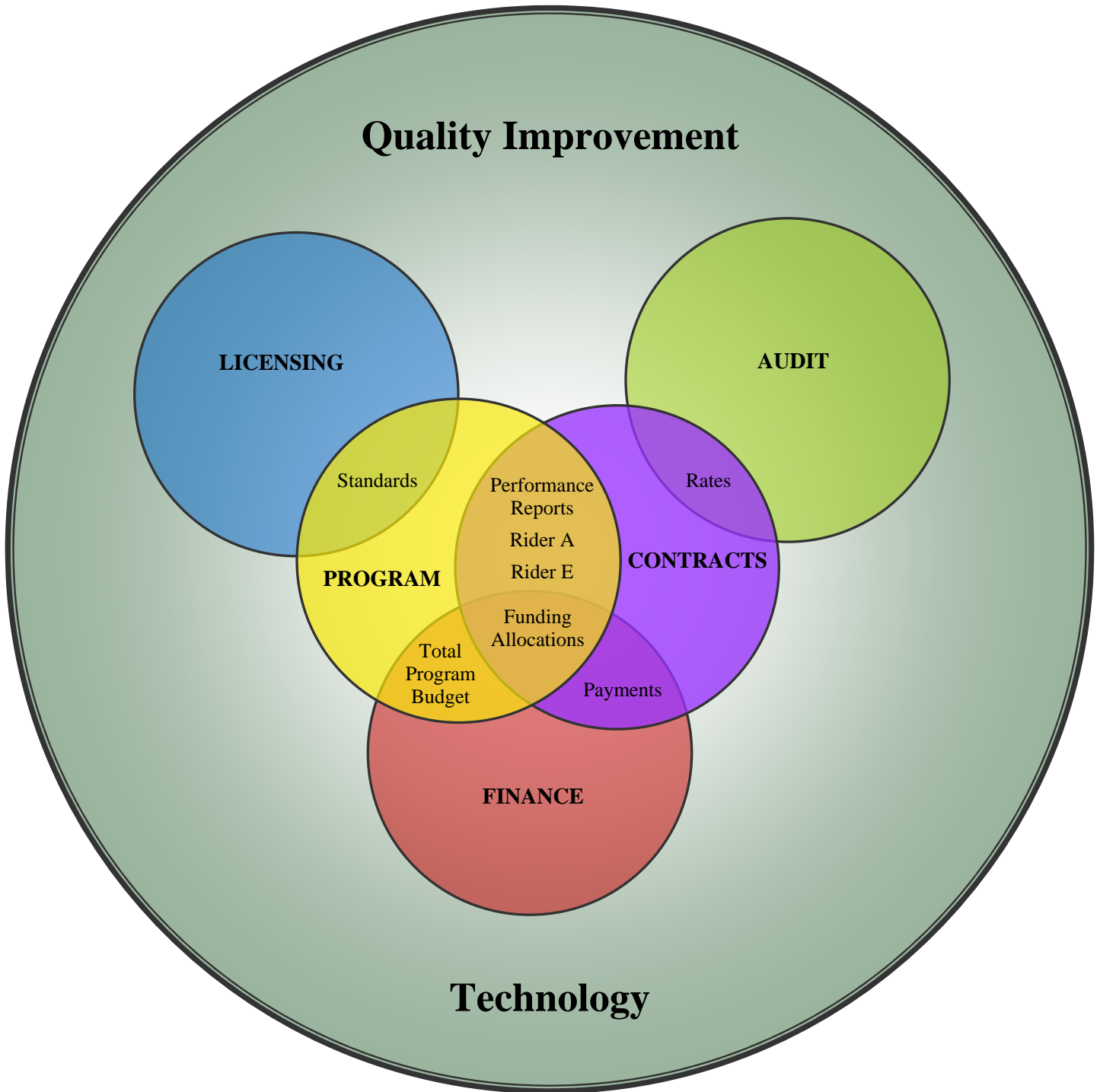
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INTERFACES BETWEEN PROGRAM MANAGEMENT AND ADMINISTRATIVE FUNCTIONS



SECTION 1: GENERAL INFORMATION

1.1 INTRODUCTION

Purpose

To provide a procedural guide for staff of the Department of Health and Human Services in its commitment to the effective management of Department agreements and to meeting the Department's programmatic and financial missions and goals.

1.2 AUTHORITY

Authority

[Title 22-A MRSA, Subtitle 1, Chapter 1, Subchapter 2, §213](#) directs the Department of Health and Human Services to "...administer any funds which may be available from private, local, state or federal sources for the provision of social services as defined by the department. Within any limitation that may apply from the sources of such funds, the department may provide said social services itself, or ensure itself of the provision of such services by purchase of services, by contracts or, by grants, or by joint provision of services, by contracts or, by grants, or by joint provision of services with other agencies through matching agreements."

The statute further states, "The department shall adopt rules as necessary to define eligibility for such services, contractual terms, conditions for grants, matching ratios and, quality of performance standards and such others as are necessary for the administration of this section."

The services provided to eligible clients are contingent upon the availability of funding.

1.3 PURPOSE OF THE MANUAL

Purpose and Applicability

The policies and procedures in this manual are for use by Department staff engaged in the purchase and administration of services under its jurisdiction that are supported by federal, state, and other funds. It identifies the policies and procedures to be followed by Department staff under the Department's applicable Purchase of Service rule ([10-144 CMR, Chapter 24](#)). Providers may use this manual as a guide to understanding both the Department's expectations of DHHS staff as well as the compliance expectations of providers contained in agreements with DHHS.

DHHS staff will endeavor to manage agreements with the greatest degree of consistency, accountability, and cost effectiveness to ensure that delivery of services meets the needs of the consumers, as well as Department and various state, federal, and other funds. The Department is committed to an agreement management system that promotes the best business practices and supports the Department's public mission.

This manual will guide staff in the administration of all Department agreements with community agencies and individuals, including all agreements for the purchase of services pursuant to federal and state statutes. This manual in no way relieves the provider from their responsibility to comply with the terms of the agreement or to adhere to all applicable statutes, rules, and regulations.

1.4 STRUCTURE OF THE MANUAL

Format

This manual is designed to guide Department staff in the administration of its purchase of service agreements. Each part of this manual is found under a "Section" reference, and is further broken into "Subsections" and "Pages".

Content

This manual contains general standards applicable to all purchase of service agreements administered by the Department. There may be additional requirements specified by program management that are referenced in the agreement; such requirements may supplement but do not replace either the standards contained in this manual or other state and/or federal requirements.

Changes to this Manual

This manual may be revised from time to time as needed.

Action Transmittal

An Action Transmittal will be issued by the Director, Division of Purchased Services to address questions of interpretation of these standards, update the manual, and/or to issue new procedures and forms. The Action Transmittal will be addressed to applicable DHHS staff, the Executive Director/Chief Operating Officer of provider(s), and to other interested parties affected by the changes.

Availability

This manual will be maintained in an electronic format for use by Department staff and as a reference guide to providers. References to websites are included for the convenience of all users of this manual.

1.5 DEFINITIONS

The following definitions apply throughout this manual. Further details are available in applicable sections as well as at referenced websites.

Agreement for Special Services

Agreement for Special Services, also called a [BP18](#), means a legally binding, written agreement between the Department of Health and Human Services and a provider; the agreement is used for contracting casual, intermittent, or other special services for which the Department may pay the provider during the fiscal year a maximum of \$5,000.

Agreement to Purchase Services

Agreement to Purchase Services, also called a [BP54](#), means a legally binding written agreement between the Department of Health and Human Services and a provider that exceeds \$5,000. It contains a description of the services to be performed and the terms and conditions agreed to by all parties including, but not limited to, the cost of the service, payment terms and the settlement method. It may include a program budget. An Agreement to Purchase Services is commonly referred to as an agreement and may be a contract, a grant, or a cooperative agreement, depending on its purpose.

Agreement Administrator

Agreement Administrator means the Department staff person who has been assigned responsibility for the management of an agreement in the negotiation, development, and monitoring of agreement performance. The Agreement Administrator is identified in Rider B of the agreement.

Agreement Amount

Agreement Amount means the amount of funds available from the Department of Health and Human Services in consideration of the work to be performed. The agreement amount is stated on the agreement signature page for both the Agreement to Purchase Services and the Agreement for Special Services as well as in Rider B of the Agreement to Purchase Services.

Amendment

Amendment means substantive change(s) to the original agreement, which change(s) is agreed to by all parties to the agreement. An amendment will be in written form and signed by all parties to the agreement.

Authorized Representative

Authorized Representative means a legal representative of a private or public entity approved by the provider's governing body to act on behalf of the entity.

CFDA Number

CFDA Number means the numerical identification of a federal program as listed in the [Catalog of Federal Domestic Assistance \(CFDA\)](#) issued by the U.S. Government. Each listing contains a synopsis of information about the federal program, including: uses, restrictions, and eligibility requirements.

Commissioner

Commissioner means the Commissioner of the Maine Department of Health and Human Services.

Community Agency

Community Agency means the same as "provider" for the purpose of interpreting the rules contained in the [Maine Uniform Accounting and Auditing Practices for Community Agencies \(MAAP\)](#).

Contract

Contract means a written agreement between a provider and the Department, describing the service to be performed, the terms and conditions agreed to by the parties, the cost of the service, and how payment will be made. The principal purpose of a contract is to purchase, lease, or barter property or services for the direct benefit of the government.

Cooperative Agreement

Cooperative Agreement means any activity of interest to the State of Maine where the joint participation of the State and the University of Maine will improve services to people of the State and will enhance the ability of the University to further its teaching, research, and public service missions.

Department

Department means the Maine Department of Health and Human Services.

Department of Health and Human Services

[Department of Health and Human Services](#) means the agency of state government set up to provide health and human services to the people of Maine so that all persons may achieve and maintain their optimal level of health and their full potential for economic independence and personal development as set forth in Title 22-A MRSA.

DAFS Division of Purchases

[DAFS Division of Purchases](#) means a subsection of the Department of Administration and Financial Services (DAFS), Bureau of General Services, given the responsibility by the Legislature to administer a fair, equitable and trustworthy system of purchases by state agencies.

Division of Audit

[Division of Audit](#) means the unit within the Department of Health and Human Services established to provide auditing functions on behalf of the Department.

Division of Purchased Services

[Division of Purchased Services](#) means a subsection of the Department of Health and Human Services given the responsibility to manage agreements for the Department.

Domestic Business Corporation

Domestic Business Corporation means a business entity incorporated under the laws of the State of Maine, and authorized to transact business in Maine by filing Articles of Incorporation with the State of Maine, [Office of the Secretary of State](#).

Domestic Limited Liability Company

Domestic Limited Liability Company means a business entity organized under the laws of the State of Maine, and authorized to transact business in Maine by filing Articles of Organization with the State of Maine, [Office of the Secretary of State](#). A limited liability company has the advantage of a corporation to limit personal liability and the advantage of a partnership to assess profits and losses to individuals.

Domestic Limited Partnership

Domestic Limited Partnership means a type of partnership made up of one or more general partners who manage the business and who are personally liable for partnership debts and one or more limited partners who contribute capital and share in profits but who do not run the business and are not liable for the partnership obligations beyond contribution. Limited partnerships are a business entity formed under the laws of the State of Maine and are authorized to transact business in Maine by filing a Certificate of Limited Partnership with the State of Maine, [Office of the Secretary of State](#).

Federal

Federal means the United States government.

For-Profit Entity

For-Profit Entity means a business organized primarily for profit making purposes with the authority to distribute its net proceeds to its owners or shareholders. For-profit entities include most types of business corporations, companies, partnerships, and sole proprietorships.

Foreign Business Corporation

Foreign Business Corporation means a business entity incorporated under the laws of another state or country and authorized to transact business in Maine by filing an Application for Authority with the State of Maine, [Office of the Secretary of State](#).

Foreign Limited Liability Company

Foreign Limited Liability Company means a business entity organized under the laws of another state or country and authorized to transact business in Maine by filing an Application for Authority with the State of Maine, [Office of the Secretary of State](#).

Foreign Limited Liability Partnership

Foreign Limited Liability Partnership means a business entity that has elected to assume limited personal liability for its general partners by filing an Application for Authority with the State of Maine, [Office of the Secretary of State](#).

Foreign Limited Partnership

Foreign Limited Partnership means a type of partnership made up of one or more general partners who manage the business and who are personally liable for partnership debts and one or more limited partners who contribute capital and share in profits but who do not run the business and are not liable for the partnership obligations beyond contribution. Limited partnerships are a business entity formed under the laws of another state or country, and are authorized to transact business in Maine by filing an Application for Authority with the State of Maine, [Office of the Secretary of State](#).

General Partnership

General Partnership means an association of two or more persons who, as co-owners, carry on a business for profit. Each partner is personally responsible for the business including all liability and any profit or loss.

Grant

Grant means a written agreement between a provider and the Department that describes the terms, conditions, and scope of performance or actions that are expected of the provider. The principal purpose of a grant is the transfer of money, property, services, or anything of value to the recipient in order to accomplish a public purpose of support with no substantial involvement between the State and the recipients during the performance of the activity.

Higher Education Entity

Higher Education Entity means an institution of higher education, such as a college or university, which provides research and development, training, and other sponsored work.

Limited Liability Partnership

Limited Liability Partnership means a general partnership that has elected to assume limited personal liability for its general partners by registering this election with the State of Maine, [Office of the Secretary of State](#).

MAAP

MAAP means the [Maine Uniform Accounting and Auditing Practices for Community Agencies](#). Maine Uniform Accounting and Auditing Practices for Community Agencies means the Department of Health and Human Services' rules for accounting, auditing and administration of state and federal funds contained in agreements between the Department and providers. The rules are promulgated under the [State of Maine Administrative Procedures Act](#).

Manual

Manual means this Policy and Procedures Manual, the purpose of which is to guide Department staff in carrying out their administrative responsibilities, including the evaluation of compliance with the specific terms of an agreement. It will also serve as a guide for providers to comply with the terms and conditions of an agreement.

MaineCare

MaineCare means the Medicaid program of the State of Maine administered by the Department of Health and Human Services and authorized to provide the health insurance coverage under Title XIX of the Social Security Act, as amended, 42 U.S.C.A. §1396 et seq., and 22 M.R.S.A. §3173. It is described in the [Maine Care Benefits Manual](#).

Nonprofit Corporation

Nonprofit Corporation means a not-for-profit entity under the laws of any state and authorized to carry on activities in Maine by filing Articles of Incorporation with the State of Maine, [Office of the Secretary of State](#). A nonprofit corporation is formed for the purpose of advancing a particular objective of an organization that is not established to make a profit. Generally, this includes charitable, benevolent, and educational organizations.

Nonprofit Entity

Nonprofit Entity means any corporation, trust, association, cooperative or other organization that is operated primarily for scientific, educational, service, charitable or similar purposes in the public interest. It is not organized primarily for profit and uses its net proceeds to maintain, improve, and/or expand its operations. All nonprofit corporations are nonprofit entities.

Office of Management and Budget Circulars

[Office of Management and Budget \(OMB\) Circulars](#) means the administrative and cost principles established by the Office of Management and Budget.

Performance Based Contract

Performance Based Contract means an agreement for the purchase of direct client services employing a client-centered, outcome-oriented process that is based on measurable performance indicators and desired outcomes and includes the regular assessment of the quality of services provided. This definition is from [Title 22-A MRSA, Subtitle 1, Chapter 1, Subchapter 2, §214](#) and [Title 34-B MRSA, Chapter 1, Subchapter 2, §1208-A](#).

Program Administrator

Program Administrator means the Department staff person who has been assigned responsibility for oversight of the programmatic aspects of the agreement, if different from the Department Agreement Administrator.

Program Fiscal Coordinator

Program Fiscal Coordinator means the Department staff person who has been assigned responsibility for providing fiscal management support to the Program Administrator.

Related Party

Related Party means an entity that is part of the provider operating structure and/or is controlled or influenced by directors common to both governing bodies. Unless self-disclosed by the provider, determination of a related party is made by the Department. A related party may provide services subject to applicable restrictions.

Provider

Provider means the community agency or individual who has entered into a contractual agreement with the Department of Health and Human Services to provide services. “Provider” will mean the same as “Community Agency” for the purpose of implementing the regulations contained in the [Maine Uniform Accounting and Auditing Practices for Community Agencies \(MAAP\)](#).

Public Entity

Public Entity means state and local governmental entities, federally recognized Indian tribes, and local school districts. See [OMB Circular A-87](#) for a complete listing of public entities.

Revision

Revision means a nonsubstantive change to the original agreement usually suggested by one party and agreed to by other parties. It requires prior written approval agreed to by all parties.

Sole Proprietorship

Sole Proprietorship means a business owned and controlled exclusively by one person. This person is responsible for the business including all liability and any profit or loss.

State

State means the State of Maine except when otherwise defined.

State Agency

State Agency means a state government body generally referred to as a “Department” and established under the laws of the State of Maine.

State Procurement Review Committee

State Procurement Review Committee means a group of state officials responsible for the administrative review and authorization of all major state agency purchases of goods and services as established by the Governor of the State of Maine under [Executive Order No. 7 FY 10/11](#) issued on March 16, 2010.

Subrecipient Agreement

Subrecipient Agreement means an agreement between a provider and another unrelated entity for the purpose of purchasing part of the services described in Rider A of an agreement between a provider and the Department.

SECTION 2: AGREEMENT DEVELOPMENT AND APPROVAL

2.1 INTRODUCTION

Department staff will utilize the following policies and procedures in the development and approval of all purchase of service agreements. The purpose of the policies and procedures is to ensure quality services, reasonable costs, and compliance with all applicable federal and state statutes, rules, and regulations. Agreements may be renewed at the sole discretion of the Department.

2.2 REQUIREMENTS FOR AGREEMENT DEVELOPMENT

Purpose

The Department has established standards that address the conditions under which services may be purchased, as well as the methods used to procure these services.

Standards

The objective of these standards is to promote and ensure a system of management planning and control for the provision of community services that is efficient and cost effective. The policies and procedures in this manual are based upon the fundamental premise that community agencies are responsible for the efficient and effective administration of programs through the application of sound management policies. Consequently, each provider, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of organization and management techniques it deems necessary to ensure proper and efficient administration of an agreement with the Department. Agreements will be executed by the Department with the provider, according to this manual, program management criteria, and state and/or federal requirements.

The provisions of the rules entitled [Maine Uniform Accounting and Auditing Practices for Community Agencies](#), promulgated by the Maine Department of Health and Human Services, are incorporated herein by reference in their entirety. No exceptions may be made by any Department representative.

The Department adopts OMB Circulars [A-110](#), [A-122](#), [A-102](#), [A-133](#), [A-87](#), and [A-21](#) in their entirety with the exceptions noted in Department of Human Services Exceptions to OMB Circulars, as applicable to the type of corporation.

The Department will comply with and enforce all purchase of service requirements set forth in [Title 5 MRSA, Part 4, Chapter 155, Subchapter 1, §1816-A](#) and [Subchapter 1-A, §1825-B](#), et seq.; performance based contracting requirements set forth in [Title 22-A MRSA, Subtitle 1, Chapter 1, Subchapter 2, §214](#) and [Title 34-B MRSA, Chapter 1, Subchapter 2, §1208-A](#) and the Department of Administration and Financial Services, Bureau of General Services, Rules for the Purchase of Services and Awards ([18-554 CMR, Chapter 110](#)).

Sole Source Approval vs. Request for Proposal (RFP)

- Agreements for \$5,000 or less may be processed without sole source approval or an RFP using form [BP18](#).
- Agreements between \$5,000 and \$10,000 require three quotes from qualified vendors. Selection of the provider is based on the lowest quote received.

- Agreements over \$10,000 are processed through the RFP process or by [DAFS, Division of Purchases](#) approval of sole source procurement.
- Sole source procurements are approved by [DAFS, Division of Purchases](#). Justification is detailed on the [BP37SS](#). Sole source requirements are
 - the procurement is available only from a sole source; or
 - the procurement is of such narrow scope or constraint that the need can be met satisfactorily only by a single source; or
 - the procurement is of such compelling urgency that government operations would be seriously impaired by delay inherent in following competitive procedures; or
 - the procurement is otherwise the most economical, effective and appropriate means of fulfilling a demonstrated need.
- Request for Proposal requirements are detailed at the links below. Justification is detailed on the [BP37CA](#).
 - DAFS, Division of Purchases: [18-554 CMR, Chapter 110](#)
 - DHHS, Division of [RFP Manual](#)

Conditions for Purchasing Services

The Department will develop an agreement when

- the Department has determined the need to purchase services exists because client services from the provider or individual will exceed \$5,000 per year per provider, whether the funds in the agreement are encumbered; or
- services to the Department, in any amount, will aid the Department in its operations, such as market studies or consultation; or
- the Department has approved the provider for an agreement based upon compliance with licensing standards, program management standards, standards contained in this manual, applicable rate setting, and enrollment under MaineCare, as applicable; or
- the services to be purchased do not duplicate direct services delivered or purchased by the Department or other state agencies; or
- services to be purchased are legally required; or
- services to be purchased are in compliance with the intended purposes of the federal and state funding source, in accordance with all governing statutes, rules and regulations, and have been approved as part of the Department's financial allocation plan and funding is available from state, federal, or other funding sources; or
- the provider has an agreement that will be renewed, the provider has been selected through the Request for Proposal process, or the provider has been approved as a sole source. A Request for Proposal may stipulate provisions for optional renewal, such as the number of renewals or the time period covered. Agreements will not exceed these limits.

Allocation Plans and Guidelines

- Allocation Plans will be approved by program management prior to the development of the agreements. The Program and Fiscal Coordinator has lead responsibility working with program management in the development of the allocation plan for approval, with input from the Division of Purchased Services.
- Allocations will be based upon funding availability, anticipated need for services, and previous performance. Funds provided through an agreement will not supplement MaineCare. Other funding sources will be used by the provider to offset expenses.

Agreement Types

- **Contract**
A type of written agreement between a provider and the Department, describing the service to be performed, the terms and conditions agreed to by the parties, the cost of the service, and how payment will be made. The principal purpose of the contract is to purchase, lease, or barter property or services for the direct benefit of the government.
- **Cooperative Agreement**
A type of written contract defined as any activity of interest to the State of Maine where joint participation of the State and the University of Maine will improve the capacity of the State of Maine to provide services to the people of the State, and will enhance the ability of the University to further its teaching, research, and public service missions. The Department Agreement Administrator for cooperative agreements can provide a hard copy of the [Memorandum of Understanding](#) signed in 1989. As a contract, cooperative agreements are subject to STACAP fees (contact the [Bureau of the Budget](#) for more details). STACAP fees are administrative fees charged to the various state departments by the department of Administrative and Financial Services.
- **Grant**
A type of written agreement between a provider and the State of Maine, which describes the terms, conditions, and scope of performance or action that is expected of the provider. The principle purpose of a grant is the transfer of money, property, services, or anything of value to the recipient in order to accomplish a public purpose of support with no substantial involvement between the State and the recipients during the performance of the activity.

Agreement Levels

- **Agreement for Special Services**
A legally binding, written agreement between the Department and a provider used for contracting casual, intermittent or other special services for which the Department will pay the provider a maximum of \$5,000 during the fiscal year; this level requires the [BP18](#) signature form. This agreement is not renewable.
- **Agreement to Purchase Services**
A legally binding, written agreement between the Department and a provider for \$5,000 or more that contains a description of the services to be performed and the terms and conditions agreed to by the parties including, but not limited to, the cost of the service, payment terms, and settlement method. It may include a program budget. This level requires the [BP54](#) signature form, Rider B and other applicable riders.

Agreement Period

- The effective start and end dates of the agreement are stated in the agreement. The agreement will not be backdated from the date the Department Agreement Administrator issues approval of the agreement unless an exception is approved by the Director, Division of Purchased Services.
- Provision of services or billing for services is not allowable or reimbursable prior to execution of an agreement.
- Initial agreement means the first agreement between a provider and the Department for specified services, stems from an RFP or sole source approval, and will be separate from other agreements. In subsequent years and at the sole discretion of the Department, initial agreements may be combined with an agreement providing similar services with the same provider. Initial agreements will be for one year or less unless additional time is needed to match the state and/or federal fiscal year or completion of the project requires more than one year.
- Renewal agreements may be for 1-3 year's duration, depending upon the need determined by the Director, Division of Purchased Services, in collaboration with program management. Multiyear agreements may be written for agreements that are customarily renewed, when the funds are stable, services are performed satisfactorily, and the time period matches similar services.

Settlement Types

The Department will purchase services by one or more of the following methods. See other manual sections for applicable fiscal provisions, payment, and settlement procedures.

- **Cost Sharing**
An agreement where the percentage of net allowable expenses is based upon a program budget and the Department's cost shared portion of allowable expenses of the total program. A unit cost may be determined and cost capitations may be imposed as stated in the agreement.
- **Fee for Service**
An agreement that is based upon rate setting criteria such as a Medicaid/MaineCare rate, a market rate study, a rate imposed by state and federal statute, rule and regulation, or a negotiated rate.
- **Unit Cost**
An agreement based upon a program budget where the amount of available funds from the Department is divided by the Department's share of total program units to arrive at the unit cost. The Department agreement amount may include local share/matching funds, according to state and federal requirements. Cost capitations may be imposed.
- **Line Item Expense**
An agreement where Department funds are earmarked for specific cost items within the total program budget. The funds available from the Department will not be used for any other expense items in the program budget.
- **Specific Deliverables**
An agreement where funds are earmarked for specific deliverables outlined in the agreement for a particular project.
- **Fixed Price**

An agreement where the total agreement amount will be paid upon completion of all agreement terms in Rider A.

- **Other**

Purchase of service agreements may be developed using other approved methods for different services and types of expenses as approved by the Director, Division of Purchased Services.

Performance Based Agreements

- All agreements for the purchase of direct client substance abuse or behavioral health services will be performance based as required by [Title 22-A MRSA, Subtitle 1, Chapter 1, Subchapter 2, §214](#) and [Title 34-B MRSA, Chapter 1, Subchapter 2, §1208-A](#).
- The provider will submit performance based contracting reports to the Department as prescribed in Rider A of the agreement. See [Agreement Reporting](#) in Section 4.4 of this manual.
- The provider will comply with all performance-based contracting standards specific to the agreement and all applicable Department program policies.

Temporary Staff Services Agreements

- When the number of hours exceeds 1,000 hours/year, [Title 5 MRSA, Chapter 155](#) will be followed.
- When the hours are 1,000 hours/year or less, the following procedures will be followed:
 - for agreements totaling \$5,000 or less, three verbal quotes from qualified providers are required;
 - for agreements ranging from \$5,001-\$10,000, three written quotes from qualified providers are required;
 - for agreements ranging from \$10,001-\$25,000, written quotes, based on job descriptions, from all providers of temporary services in the geographic area are required;
 - for agreements over \$25,000, Request for Proposal is required;
 - for all amounts, the [Supplemental Sheet for Contracted Employees](#) will be completed.

Renewal Agreements

Renewal agreements will be executed at the sole discretion of the Department and will be written and signed by all parties. If the Department has determined that it will execute a renewal agreement, the following will occur.

- The Department will issue an allocation to the provider detailing the amount and source of available funds, the agreement period, services purchased, and any local share/matching requirements as noted above. The provider will be given a return date for completion and submission of their agreement.
- Contingent upon the availability of funds and the level of services previously provided, the funds available to the provider may be more or less than the amount from the previous agreement period. Renewal agreements may contain the same provisions as in previous agreements and may

incorporate changes such as changes in the agreement period, scope of work to be performed, method of payment, and agreement settlement terms.

Legal Status of Community Agencies

The Department may purchase services from the following providers.

- Domestic and foreign business and nonprofit corporations, domestic and foreign limited liability companies, domestic and foreign limited liability partnerships, and domestic and foreign limited liability partnerships on file with the State of Maine, Office of the Secretary of State, with a “good standing” status;
- Legally established public entities, educational entities, general partnerships, and sole proprietorships;
- Community agencies operating under an assumed name only if the assumed name is
 - filed with the State of Maine, [Office of the Secretary of State](#). This standard applies to all domestic and foreign business or nonprofit corporations, domestic and foreign limited liability companies, domestic and foreign limited partnerships, and domestic and foreign limited liability partnerships; or
 - filed with the municipality in which the business operates in accordance with [31 MRSA](#). This standard applies to all general partnerships and sole proprietorships operating in the State of Maine.
- Out-of-state businesses that comply with all filing requirements of the State of Maine
- Individuals who maintain themselves as a business within the community such as private consultants
- Individuals who are enrolled in the MaineCare program as a provider

Expectations of Providers

- Providers will have administrative, program, and financial management systems to ensure
 - complete and accurate documentation;
 - compliance with applicable licensing/certification standards;
 - compliance with agreement requirements;
 - compliance with state and federal regulations;
 - compliance with applicable MaineCare regulations and program management requirements;
 - compliance with [Maine Uniform Accounting and Auditing Practices for Community Agencies \(MAAP\)](#);
 - prompt resolution of any corrective action plans, any MaineCare identified non-compliance issues, and adverse findings or sanctions within established timeframes;

- prompt resolution of any licensing violations within established timeframes;
 - prompt payment of any outstanding debt owed to the State within established timeframes for prior agreement settlement or recoupment for MaineCare violations for which no re-payment arrangements have been approved;
 - adherence to federal restrictions regarding [debarment](#), suspension, and [exclusions](#).
- Providers will employ sound business practices that ensure adequate internal control, arms length bargaining, accurate billing, and documentation. These business practices will ensure accuracy of financial data, safeguarding of assets, and operational efficiency. All financial reports will be prepared in accordance with Generally Accepted Accounting Principles (GAAP) and consistently applied, unless specific variations are required. Providers will report any actual or potential conflicts of interest to the Department Agreement Administrator.
- Providers will maintain financial and professional records to sufficiently, fully, and accurately document the nature, scope, and details of the services provided. Records will be kept for a period of not less than five (5) years from the date of service, or longer if necessary to meet other statutory requirements. If an audit is initiated within the required retention period, the records will be retained until the audit and settlement is complete.
- The provider is responsible for all services and requirements contained in the agreement. In the event the provider, with prior approval from the Department, enters into a subrecipient agreement for a portion of the services, the provider is responsible for the monitoring of the service provision, the appropriate expenditure of funds and the settlement of funds provided to the subrecipient.

Additional Expectations of Providers with Cost-Sharing Agreements

Due to the cost settlement nature of these agreements, providers will have financial management systems to ensure

- accurate, current, and complete disclosure of the financial results of the operations;
- records that identify the source and application of funds, including agreement awards, obligations, unobligated balances, assets, outlays, and income. Accounting records will be supported by source documentation;
- effective control over funds, property, and other assets;
- comparison of actual to budget for each program;
- procedures are in place for determining that costs are allowable and that the allocation of costs are consistent with state and federal standards

Additional Expectations of Providers with enter into Subrecipient Agreements

Occasionally a provider may need to develop a subrecipient agreement with another provider to furnish services or products to be delivered under the agreement, as described in [Rider B, #8 Subagreements](#).

- **Prior Approval to Subrecipient Agreement**
Any subrecipient agreement entered into by the provider will be approved by the Department Agreement Administrator, as per Rider B, #8 Sub-Agreements, prior to the provision of services.

- **Subrecipient Awards**
 A subrecipient award will be required whenever a portion of the direct services as described in Rider A of the agreement between the provider and the Department is performed by another provider entity in consideration of funds provided by the Department. Exception: Providers that administer networks of family child care homes are exempt from the requirements of this section of the manual, but will comply with program management standards.
- **Provider Responsibilities concerning Subrecipient Agreements**
 The provider assumes responsibility for all services offered and products to be delivered regardless of whether the provider is the manufacturer or producer of said services.
- **Relationship between Provider, Subrecipient and Department**
 The provider will be wholly responsible for performance of the entire agreement regardless of whether subrecipients are used. Any subrecipient agreement entered into by the provider with respect to performance under this agreement will not relieve the provider in any way of responsibility for performance of its duties. Further, the Department will consider the provider to be the sole point of contact with regard to any matters related to this agreement, including payment of any and all charges resulting from this agreement. The Department will bear no liability for paying the claims of any subrecipients, whether those claims are valid or not.
- **Liability to Subrecipients**
 The requirement of prior approval of any subrecipient agreement under this agreement will not make the Department a party to any subrecipient agreement or create any right, claim or interest in the subrecipients or proposed subrecipients against the Department. The provider agrees to defend (subject to the approval of the Office of the Maine Attorney General) and indemnify and hold harmless the Department against any claim, loss, damage, or liability against the Department based upon the requirements of [Rider B, Section 18](#).
- **Restriction on Subrecipient Agreements with Related Parties**
 Providers are prohibited from entering into subrecipient agreements with a related party in order to fulfill an agreement with the Department. “Related party” means the subrecipients is part of the provider operating structure and/or is controlled or influenced by directors common to both governing bodies. Unless self-disclosed by the provider, determination of a related party is made by the Department. A related party may provide services as long as the expenses are disclosed in the agreement budget.
- **Subrecipient Award Responsibilities**
 All subrecipients of an award will be bound by the same terms and conditions of the agreement between the Department and the provider and will be subject to all standards contained in this manual.
- **Subrecipient Overpayments and Underpayments**
 All overpayment and underpayments of agreement funds to the subrecipient by the provider will be settled by the provider within sixty (60) days following the termination date of the subrecipient agreement. The subrecipient agreement expense amount reported to the Department Agreement Administrator will be the actual amount earned by the subrecipient.

 - **Example-Overpayment**
 A provider has a subrecipient agreement with an unrelated provider for \$10,000. The subrecipient is paid the full \$10,000 but only earned \$8,000. The \$2000 balance will be returned to the provider within sixty (60) days of the agreement termination.

- **Example-Underpayment**
A provider has a subrecipient agreement with an unrelated provider for \$10,000. The subrecipient is paid \$8,000 but earned \$10,000. The \$2000 balance will be paid to the subrecipient within sixty (60) days of the agreement termination.
- **Collection of Overpayments**
It is the provider's responsibility to collect all overpayments from the subrecipient. Any uncollected overpayment amount will be considered a bad debt expense that is not reimbursable by the Department.
- **Reporting**
The provider will be responsible for collecting all reports required in Rider A of this agreement.

2.3 REVISIONS AND AMENDMENTS

Purpose

The Department or the provider may find it necessary to modify the agreement during the course of the agreement period. Purchase of service agreements are modified either through a revision or an amendment and are subject to the standards contained in this manual.

Standards for Revisions

Required Revisions

The provider is required to submit a written request for a revision as stipulated in the [Maine Uniform Accounting and Auditing Practices for Community Agencies \(MAAP\)](#) or if there is a change in the allocation method used for distributing the provider's general and administrative indirect expenses. The written request will include a narrative justification for the revision. The provider is responsible for determining the need for a revision and to submit the request for a revision in a timely manner and at least thirty (30) calendar days prior to the termination date of the agreement. The Department Agreement Administrator will review any financial reports to determine whether the provider is meeting this obligation.

Revisions Requested by the Department

If the quarterly financial reports indicate the need for a revision, and the provider does not request it, the Department Agreement Administrator may send the [Notice for Budget Revision](#) to the provider indicating that non-approved expenses may be considered non-reimbursable at the time of audit or agreement close-out.

Revisions Requested by the Provider

Notwithstanding the requirements of the MAAP, providers may choose to request an agreement revision when one or more of the following conditions occur or are projected to occur by the end of the agreement period.

- The provider needs to revise the agreement budget as a result of known changes or projected changes in income and expenses that are less than those requiring a revision under MAAP;

- The provider needs to make nonsubstantive changes to the [Rider A](#) or [Rider F](#) of the agreement;
- The provider needs to correct an error or an omission in the agreement;
- The provider needs to update the list of equipment actually purchased

Written Request to Revise the Agreement

All requests to revise the agreement will be in writing and accompanied by the applicable revised and/or supplemental agreement pages. The request will contain a narrative justification for revising the agreement, as well as a summary of the changes. The provider's duly authorized agency representative will sign the request.

Timeline Requirement

All agreement revisions will be completed by the provider and submitted to the Department Agreement Administrator no later than thirty (30) calendar days prior to the termination date of the agreement, unless otherwise stipulated in state or federal requirements. Requests for revisions will be submitted in advance of expenses being incurred; not at the end of the agreement. Approval of revised expenses is not guaranteed. If the provider incurs costs outside the approved budget, they are expending funds at risk of non-reimbursement. Final determination of costs will occur at agreement close-out or the audit under MAAP, whichever is applicable.

Format and Content Requirements

All revisions will be completed on forms or in a format provided by the Department. The revised agreement pages will supersede the original pages or supplement the pages contained in the signed agreement and will be paginated accordingly. Revised budgets will indicate total revised costs.

Approval by the Department

The Department Agreement Administrator will review all revisions for accuracy, completeness, changes in the scope of work, and changes in costs to the Department. The Department Agreement Administrator may request additional information and/or clarification. The Department Agreement Administrator will consider approving a request to revise the agreement utilizing the [review and approval criteria](#) for agreement approval as contained in this manual. The Department Agreement Administrator may approve provider submissions, but has no authority to relieve the provider from being audited according to MAAP and federal regulations in cases where this approval may be counter to the MAAP and federal regulations.

Notification

The Department Agreement Administrator will give the provider written notification of acceptance or denial of all requests to revise the agreement. If approved, copies of the revised agreement pages will be attached to the approval letter within fifteen (15) working days of receipt of the request.

Limitation

Revisions outside the effective dates of the agreement cannot be approved, unless otherwise approved by the Director, Division of Purchased Services.

Standards for Amendments

Required Amendments

An [amendment](#) to the agreement is required when one or more of the following conditions occur or are projected to occur by the end of the agreement period.

- There is a change in the amount of agreement funds available to the provider from the Department as a result of changes in utilization, costs, availability of funds, or other factors.
- The Department institutes or discontinues its authorization of fees, also known as co-payments, assessed to Department-funded clients.
- There is a substantive change to one or more of the agreement terms contained in the Riders or attachments, such as
 - addition or reduction in the service provided;
 - change in the service provided, such as catchment area, population served, eligibility, deliverables, or performance standards.
- There is a change in the agreement start date and/or the agreement termination date – a no cost extension. To be approved, there will be no change to the original scope of work. The work can not be completed in the original timeframe; therefore it is necessary to extend the termination date of the agreement.
- The scope of work as originally defined results in an unexpected need to authorize minor, but related, activities. These requests may be approved as an amendment or the Department may require that the work be done under a separate agreement.
- There is a change in the fee, method of payment, and/or settlement.
- There is a change in the distribution of federal and/or state funds available to the provider due to reductions or increases in funding from federal or state appropriations.
- There are changes implemented by federal and/or state funding sources that require substantive changes to the agreement, such as changes to program eligibility or local share requirements.
- The provider or Department terminates the agreement before the end of the agreement period.
- The agreement terms require a corrective action plan with immediate consequences resulting in substantive changes to the agreement.
- [Another provider assumes contractual responsibility](#) through acquisition or other legal agreement.

Timeline Requirement

Amendments will be executed prior to the termination date of the agreement. In rare circumstances, it may be necessary to amend an agreement after it has terminated. These amendments will be subject to approval by the Director, Division of Purchased Services and DAFS Division of Purchases.

Notification

The Department Agreement Administrator will give the provider written notification of the need to amend the agreement.

Amendment Process

- The Department Agreement Administrator will supply the provider with the necessary [agreement amendment forms](#).
- Justification for the amendment will be clearly stated on the amendment signature page.
- Changes to the agreement terms as a result of the amendment will be described on the amendment signature page, on the affected Riders, and/or on the budget forms.
- A duly authorized agency representative of the provider will sign the amendment signature page.
- The amendment will be completed by the stated deadline.
- The agreement amendment will be reviewed and approved by the Department Agreement Administrator utilizing the [review and approval](#) criteria for agreement approval as contained in this manual.
- Failure of the provider to submit an agreement amendment required by the Department Agreement Administrator may result in forfeiture of agreement funds, a stop payment action by the Department Agreement Administrator, and/or early termination of the agreement. The Department Agreement Administrator will notify the Division of Purchases of the action taken as a result.
- Failure of the provider to sign an amendment or if an amendment is contraindicated, the Department Agreement Administrator will send the [Notice of Termination](#) to the provider, with a copy to the DAFS Division of Purchases.

2.4 AGREEMENT APPROVAL PROCESS

Purpose

The Department has established an agreement submission, review, and approval process that will be followed to ensure that all agreements are correctly completed, submitted, examined, and approved by the Department and other state agency representatives. In its purchasing of services, the Department will pursue the most economical, cost effective, and appropriate means of fulfilling a demonstrated need.

Standards

The Department Agreement Administrator may approve provider submissions, but has no authority to relieve the provider from being audited according to MAAP and federal regulations in cases where this approval may be counter to the MAAP and federal regulations.

Approval Process

- The Department Agreement Administrator will issue an allocation to the provider detailing the amount and source of available funds, the agreement period, and the service(s) purchased, according to the allocation plan approved by Program management.

- The Department Agreement Administrator will supply the provider with the agreement forms. The agreement will be completed on the forms provided by the Department Agreement Administrator. The provider will be given a date to complete and return an original set of the agreement forms to the Department Agreement Administrator.
- The agreement will be signed by a duly authorized representative of the provider. Failure to return the agreement forms by the required submission date may jeopardize the availability of agreement funds resulting in a shortened agreement period, forfeiture of agreement funds or rejection of the agreement.

Review and Approval Criteria

- All agreement pages as required, requested, and directed by the Department Agreement Administrator are complete, information provided is current and accurate, all calculations are correct, and submitted budgets are balanced
- The provider's proposed service costs are reasonable and acceptable to the Department Agreement Administrator. In determining whether costs are reasonable and acceptable, the Department Agreement Administrator will consider the following:
 - costs or fees are within acceptable limits imposed by statute, rule, regulation, or other rate setting criteria;
 - costs or fees are less than or comparable to other purchase of service agreements for the same or similar services;
 - costs or fees are equal to or less than what the provider charges its non-Department program clients for the same or similar services;
 - fees for consultants or subrecipient agreements are less than or comparable to other purchase of service agreements for the same or similar services;
 - total compensation for salaries and fringe benefits budgeted for administrative and direct service personnel is reasonable and in compliance with MAAP ;
 - proposed costs for deliverables or other products are less than or comparable to prevailing costs for similar activities or items;
 - indirect allocated costs (costs that cannot be readily identified as a direct cost to a program) are equitably distributed among the programs and/or activities (such as fundraising) that benefit clients served;
 - the provider may use other revenue to offset specific line item expenses in their budgets that the Department Agreement Administrator considers to be either unreasonable or unacceptable to be purchased with agreement funds.
- The provider's proposed costs to the Department comply with the administrative and cost principles contained in the following OMB Circulars.
 - All public entities (including school districts and federally recognized Indian Tribes) will comply with the standards contained in OMB Circulars [A-87](#) and [A-102](#).

- All nonprofit entities will comply with the standards contained in OMB Circulars [A-110](#) and [A-122](#).
 - All higher education entities will comply with the standards contained in OMB Circulars [A-21](#) and [A-110](#).
 - All for-profit entities will comply with the standards contained in OMB Circulars [A-87](#) and [A-102](#).
- The purchase of service agreement submitted is in compliance with the standards contained in this manual and governing statutes, rules and regulations.
- The applicable licensure and rate setting have been completed.
- The provider is not [debarred](#) or [excluded](#).
- No debt is owed to the Department other than as specified in an approved repayment plan.

Negotiation

- **Good Faith Negotiation**
The Department and the provider will make a good faith attempt at negotiating any items of disagreement.
- **Termination of Negotiations**
At any time during the agreement review process, the Department may terminate agreement negotiations and decide not to enter into a purchase of service agreement with the provider. The Department Agreement Administrator will send written notification of the decision to the provider's executive director or chief operating officer and to the agency's president of the Board of Directors.

Final Approval and Encumbrance of Funds

- All agreements approved for funding by the Department are subject to review and approval by the following.
 - for any agreement in excess of \$3 million dollars, the Department will seek approval and legal advice from the [Office of the Maine Attorney General](#) regarding the terms of the agreement;
 - the Commissioner of the Department, or his/her duly authorized designee;
 - DAFS approval involves the approval by the State Procurement Review Committee and/or the Director of the Division of Purchases, Bureau of General Services, Department of Administrative and Financial Services, as set forth in Executive Order No. 7 FY 10/11 issued by Maine Governor John E. Baldacci on March 16, 2010.
- Most agreements will be encumbered. In limited cases, unencumbered agreements may be developed when all of the following situations exist.
 - the service is unpredictable such as emergency placements;
 - funds fluctuate based upon individual client needs;

- All agreements become effective when the Department of Administrative and Financial Services has encumbered the agreement funds or approved the agreement as unencumbered.

SECTION 3: AGREEMENT CONTENTS

3.1 INTRODUCTION

Purpose

An agreement between the Department and a provider constitutes a legally binding agreement between the two parties. It is written and signed by all parties to the agreement.

When contracting for purchased services the Department will comply with all federal and state statutes, rules, and regulations regarding the procurement of services. Further, it will comply with all format and content directives issued by the Commissioner's Office, [Office of the Governor](#), the State Procurement Review Committee, and the [Department of Administrative and Financial Services, Bureau of General Services](#).

The agreement consists only of what is in written form, including revisions and amendments if in writing and signed by both parties to the agreement. No verbal promises will be considered as part of the agreement.

The Department will determine the format and content for all agreements administered by the Department. All pages will be original and printed on 8½ by 11 sheets.

3.2 AGREEMENT COMPONENTS

Purpose

This section describes the components of an agreement.

Standards

Agreements \$5,000/year or less

- [BP18](#) Agreement for Special Services (also referred to as the Signature Page);
- [Supplemental Sheet for Contracted Employees](#) if the agreement is for temporary staff services

Agreements in excess of \$5,000/year/providers

- [BP37CA](#) Competitive Award Authorization Form or [BP37SS](#) Sole Source Authorization Form (This page is required by DAFS and is not forwarded to the provider as part of the agreement);
- [BP54](#) Agreement to Purchase Services (also referred to as the Signature Page);
- [Standard Agreement Cover Page](#);
- [Rider A](#) Specifications of Work to be Performed;
- [Rider B](#) Method of Payment and Other Provisions;
- [Rider C](#) Exceptions to Rider B, if applicable;
- [Rider D](#) Additional Requirements, if applicable;
- [Rider E](#) Program Requirements, if applicable;
- [Budget Forms, Rider F-1 Agreement Settlement Form, Rider F-2 Agreement Compliance Form](#), if applicable;
- [Rider G](#) Identification of Country in which Contracted Work will be Performed;
- [Rider I](#) Assurance of Compliance;
- [Debarment Certification Form](#) if the agreement has federal funding (federal funds 013, 015, 020, 021) greater than \$25,000
- Any other riders, attachments or sections required by the Department

Cooperative Agreements will follow the procedures outlined in the Cooperative Agreements Standard Operation Procedures Manual.

Changes to the Agreement

- **After provider signature but prior to Department approval**
The provider will initial any changes that occur after the provider’s signature but prior to DHHS’ signature
- **After final DAFS approval**
Changes will be made in accordance with the agreement revision and amendment standards contained in [Section 2 Subsection 2.3](#) of this manual.
- **Unauthorized Modifications**
Unauthorized modifications to the agreement by the provider will not be accepted by the Department and may result in termination of agreement negotiations or termination of the agreement.

3.3 BP37CA COMPETITIVE AWARD AUTHORIZATION FORM AND BP37SS SOLE SOURCE AUTHORIZATION FORM

Purpose

BP37 Authorization Forms are completed by the Department to provide accurate supporting information for DAFS Division of Purchases agreement review.

Standards

BP37CA Competitive Award Authorization Form

- used for agreements written as the result of a competitive award (RFP)
- completed by Program Staff
- reviewed and signed by Department RFP Manager or designee

BP37SS Sole Source Authorization Form

- used for agreements submitted when the Department is making a sole source or noncompetitive request
- completed by Program Staff
- reviewed and signed by Department RFP Manager or designee
- DAFS Policy and Guidelines

3.4 BP18 AGREEMENT FOR SPECIAL SERVICES AND BP54 AGREEMENT TO PURCHASE SERVICES

Purpose

The BP18 and BP54, referred to as the agreement signature page, serve as the legally binding authorization pages for the Department and the provider.

Standards

[BP18 Agreement for Special Services](#)

[BP54 Agreement to Purchase Services](#)

Inclusion

All agreements will contain an agreement signature page signifying the provider and the Department's concurrence with all terms of the agreement. For BP54 agreements, all appropriate Riders and attachments included in the agreement will be listed on the form as integral parts of the agreement.

Signature and Date

The provider will sign the agreement signature page prior to Departmental approval of the agreement. Both the provider and Departmental signatures will be original.

Authorized Signatures

The individual(s) who signs the agreement will be duly authorized by the provider's board of directors, steering committee, or governing body to execute agreements on behalf of the provider. For agreements made with sole proprietorships, the business owner will sign the agreement. For agreements made with general partnerships, limited partnerships and limited liability partnerships, all partners having ownership in the business entity will sign the agreement or authorize one or more partners to sign on their behalf.

Department Signature

The Commissioner, Department of Health and Human Services, or his/her duly authorized representative will sign the agreement signature.

- For agreements not exceeding \$50,000, a duly designated Purchased Services Manager may sign the agreement on behalf of the Department
- For agreements not exceeding \$250,000, the Director, Division of Purchased Services may sign the agreement on behalf of the Department
- For the above and any agreements exceeding \$250,000, the Commissioner or Deputy Commissioner for Finance may sign on behalf of the Department

3.5 STANDARD AGREEMENT COVER PAGE

Purpose

The Standard Agreement Cover Page is used to provide a quick reference for review, account coding, and audit purposes.

Standards

Standard Agreement Cover Page

- The standard agreement cover page will be completed by the Department Agreement Administrator.

3.6 RIDER A SPECIFICATIONS OF WORK TO BE PERFORMED

Purpose

Rider A describes the specific services the Department purchases from providers. The information provided in Rider A serves as a basis for clearly describing service provision as well as the monitoring and evaluation of the quality and effectiveness of the service. It may include references to or requirements of a [Request For Proposal](#).

Standards

The Department will determine the format and content requirements contained in Rider A of the agreement. The Department will purchase the types of services that are consistent with uses as identified in federal and state statutes, rules and regulations. Rider A may contain any or all of the following sections as determined by the Department Agreement Administrator and as applicable to the type of agreement and services to be purchased.

[Rider A](#)

- **Agreement Funding Summary**
identifies type(s) of service(s) to be purchased and a reference to the level of funding and service delivery requirements for each service
- **General Requirements**
provides a listing of the required reports and respective due dates
- **Service Specifications and Performance Guidelines**
contains a descriptive overview of the services to be purchased, including, as applicable
 - **Service definition** that describes the service being purchased;
 - **Service components** that list the types of activities that are reimbursable or billable under the agreement. Nonallowable or nonbillable types of activities may also be referenced;
 - **Unit of measurement** that quantifies the increments in which the services will be delivered and reported to the Department Agreement Administrator;
 - **Performance criteria** containing performance goal(s), indicator(s), strategies and measures, or a reference to them as a required report;
 - **Summary of services** to be delivered by the provider to clients funded by the Department. This section may require the distribution of service(s) by client group, by funding source, or by other stated criteria.
 - **Description of tasks** to be accomplished as deliverables and the associated costs

Client Groups

The Department reserves the right to identify client groups to receive services in compliance with all federal and state statutes, rules, and regulations, as applicable. Priority for services may be given to one or more client groups.

- The Department will identify groups of clients eligible to receive the services funded by the Department through purchase of service agreements. The Department will comply with all federal and state mandates for serving special population groups.
- The Department may require that certain client groups receive priority-of-service status over other eligible client groups funded by the Department through purchase of service agreements.
- The Department will provide the client group definitions and priority-of-service terms, if any, to be included in all purchase of service agreements.
- The amount of Department funded services to be delivered to each client group, as projected by the provider, will be subject to the approval of the Department.

3.7 RIDER B METHOD OF PAYMENT AND OTHER PROVISIONS

Purpose

Rider B describes the standards for Method of Payment and Other Provisions mandated by the Department of Administrative and Financial Services, Division of Purchases. Rider B was developed by DAFS and is the standard rider used by the State. Services provided to eligible clients are contingent upon the availability of funding and will not be interpreted to entitle any individual or family to assistance under the programs funded by the Department.

Standards

All agreements above \$5,000 will contain, without modification, Rider B unless the Office of the Maine Attorney General and the State Procurement Review Committee approves an exception. Providers seeking exceptions will specify the exceptions in [Rider C](#).

[Rider B](#) will identify

- the agreement amount;
- clearly stated payment provisions;
- clearly stated unit(s) of measurement;
- the name of the person who is designated as the Department Agreement Administrator;
- the name of the Program Administrator responsible for the programmatic requirements of the agreement, if applicable;

3.8 RIDER C EXCEPTIONS TO RIDER B

Purpose

Rider C is used to describe exceptions to Rider B. In the rare event that changes to Rider B, are approved by the Office of the Maine Attorney General and the State Procurement Review Committee, the exceptions will be described in Rider C of the agreement. Otherwise, Rider C will indicate that there are no exceptions granted. The Department Agreement Administrator has no authority to approve exceptions to Rider B and will refer the request to DAFS, Division of Purchases.

Standards

[Rider C](#)

- **No Exceptions to Rider B**
If no exceptions to Rider B are approved by the Office of the Maine Attorney General and the State Procurement Review Committee, then Rider C, will state: “No Exceptions to Rider B are granted under this agreement.”
- **Exceptions to Rider B Granted**
If the Office of the Maine Attorney General and the State Procurement Review Committee grant exceptions to Rider B, then Rider C will describe the exceptions.

3.9 RIDER D ADDITIONAL REQUIREMENTS

Purpose

Rider D is used to describe special provisions that are specific to the Department and applicable to the different program areas of the Department agreements. Community agencies that receive public funds through agreements with the Department are accountable to administrative and program requirements to ensure that public funds are expended for allowable costs associated with delivery of the services purchased and that a proper reconciliation of agreement payments is accomplished upon termination of the agreement.

Standards

[Rider D](#)

3.10 RIDER E PROGRAM REQUIREMENTS

Purpose

Rider E is used to describe program requirements in addition to and/or referencing the requirements described in Rider A, or are global requirements of the program area such as accreditation requirements or statutory requirements. Providers that receive public funds through agreements with the Department are accountable to administrative and program requirements that are applicable to the type of agreement and program area.

Standards

[Rider E](#)

3.11 RIDER F BUDGET AND SETTLEMENT TERMS

Purpose

Rider F contains the budget and settlement terms of the agreement. Providers that receive public funds through agreements with the Department are accountable to administrative and financial requirements to ensure that public funds are expended for allowable costs associated with delivery of the services purchased and that a proper reconciliation of agreement payments is accomplished upon termination of the agreement. [Section 4](#) provides details on the settlement process and standards.

Standards

Rider F

- **Program Budget** will contain revenue and expense information in compliance with the [instructions for completion of budget forms](#). This section is completed by the provider on forms provided by the Department Agreement Administrator. There are no budget presentation requirements for fee for service agreements.
- **Rider F-1 Agreement Settlement Form (ASF) Pro Forma** sets forth the adjustment and treatment of revenue and expenses following termination of the agreement. Rider F-1 contains the information necessary to reach an accurate settlement. Rider F-1 is completed by the provider subject to approval by the Department Agreement Administrator. The Department Agreement Administrator may approve provider submissions, but has no authority to relieve the provider from being audited according to MAAP and federal regulations in cases where this approval may be counter to the MAAP and federal regulations.
- **Rider F-2 Agreement Compliance Form is completed by the Department Agreement Administrator.** Rider F-2 identifies compliance requirements that will be tested in agreement audits by an Independent Public Accountant and/or examination of financial statements by the Department. Compliance testing includes Federal CFDA requirements, internal controls, standard administrative practices, allowable costs/cost principles, budget compliance, types of service allowed or not allowed, client eligibility, matching funds requirements, reporting, subrecipient monitoring, agreement settlement, and any other special provisions. Per MAAP requirements, the following items will be checked. Other options listed in Rider F-2 will be checked as applicable to the agreement type.
 - 1. Internal Control
 - 2. Standard Administrative Practices, B. Department Additions, Standards for Bonding
 - 2. Standard Administrative Practices, B. Department Additions, Program Budget
 - 3. Activities Allowed or Unallowed
 - 4. Allowable Costs/Cost Principles
 - 5. Cash Management
 - 6. Eligibility
 - 9. Period of Availability of Funds
 - 10. Procurement and Suspension and Debarment
 - 12. Reporting
 - 15. [Agreement Settlement](#)

3.12 RIDER G IDENTIFICATION OF COUNTRY IN WHICH CONTRACTED WORK WILL BE PERFORMED

Purpose

The Maine Legislature requires the Division of Purchases to determine the country where work is to be performed. The format and content are determined by DAFS Division of Purchases. Rider G is required to quantify services provided by foreign nationals. Rider G determines where work is to be performed and is a part of the agreement. It is completed by the provider.

Standards

Rider G

3.13 RIDER I ASSURANCE OF COMPLIANCE

Purpose

In response to a grievance filed, the Commissioner of the Department of Health and Human Services has entered into a Resolution Agreement with the Office for Civil Rights that affirms the Department's commitment to compliance with all provisions of Title VI and its implementing regulations. The Resolution Agreement is specifically aimed at assuring "access to, and an equal opportunity to participate fully in the services, activities, programs or other benefits administered by ME DHHS."

One of the terms of the Resolution Agreement is that all "applicable grantees, contractors, cooperative agreement participants and other entities with which ME DHHS arranges or agreements for services execute an Assurance of Compliance certifying compliance with the requirements of Title VI..." Therefore, the Assurance will be included in each agreement providing direct client services using federal funds.

Standards

[Rider I](#)

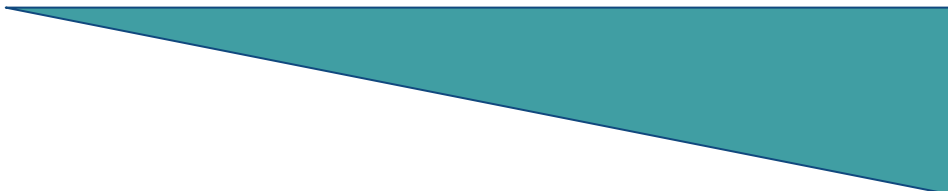
3.14 DEBARMENT CERTIFICATION FORM

Purpose

The Debarment Certification Form is used to certify that a provider is "not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency". Any provider receiving \$25,000 or more in federal funding (fund 013, 015, 020, 021) in an agreement with the Department is required to submit a Debarment Certification Form prior to final approval of the agreement.

Standards

[Debarment Certification Form](#)



SECTION 4: AGREEMENT ADMINISTRATION

4.1 INTRODUCTION

Purpose

The Department is responsible for implementing and administering numerous federal and state programs. In this capacity, the Department will determine the parameters within which these programs will be operated and managed, how services will be purchased, and how agreements will be monitored.

4.2 GENERAL ADMINISTRATIVE OVERSIGHT

Purpose

This section provides a general overview of the Department's oversight responsibilities.

Standards

Agreement Monitoring

The Department Agreement Administrator will monitor the timeliness, completeness, and accuracy of all financial expenditure reports, service delivery reports, performance based contracting reports, and all other reports required in Rider A of the agreement.

Compliance

The Department Agreement Administrator will require the provider to demonstrate compliance through documentation with any or all terms of the agreement.

When a provider is out of compliance with the terms of an agreement, the following process may be followed.

- The Department Agreement Administrator will notify the provider in writing of any agreement compliance issues identified by Department staff. The notice will include the agreement provision that is in noncompliance and a date by which the provider will comply;
- If the compliance issues described in the notice mentioned above have not been addressed by the specified date, the Program Administrator and provider will meet, discuss, and document the compliance issues. The provider will develop a corrective action plan, which includes the actions required for compliance, date by which the provider will be in compliance, and consequences for noncompliance. The Department may require the provider to engage the services of a program consultant to assist with correcting the provider's failure to achieve agreement compliance. The Department Agreement Administrator reserves the right to select the consultant or to participate in the selection of a consultant. The corrective action plan will be approved by the Department and the Department Agreement Administrator will determine if the current agreement will be amended to incorporate the corrective action plan or if this will be done at the time of agreement renewal;
- If the provider fails to undertake the corrective actions required for compliance with the agreement, the Department may terminate the agreement in accordance with [Rider B Paragraph 15](#).

Site Visits

The Department Agreement Administrator may conduct site visits at the provider's administrative offices and/or service delivery sites, as prompted by insufficient performance or other concerns, to observe, discuss, and evaluate the provider's capacity for carrying out the terms of the agreement. Follow-up action includes, but is not limited to, consultation with Department program management, corrective action plans, and special agreement requirements to address deficiencies.

Program Reviews

The provider will comply with program standards contained or referenced in the agreement. Program Reviews will be conducted when the need is determined by program management in collaboration with the Department Agreement Administrator. These reviews will be conducted by a team, as determined by program management. Program Reviews are comprehensive, resulting in a full assessment of the services provided, compliance with the terms of the agreement and program requirements, and other areas as needed. Program Reviews may be conducted onsite with the provider. If indicated, the Department may require the provider to develop a corrective action plan, subject to approval by the Department.

Technical Assistance and Training

The Department Agreement Administrator may provide technical assistance and training to providers on aspects of contracting with the Department, including, but not limited to, the proper completion of the agreement and financial reporting requirements.

Action Transmittals

The Director, Division of Purchased Services, may issue action transmittals to providers to address questions of interpretation of these standards, update this manual, to issue new procedures and forms, and

for other purposes associated with the proper and consistent application of policies contained in this manual.

4.3 TERMINATION OF AGREEMENTS

Purpose

The Department enters into agreements with providers with the expectation that both parties will be able to comply with the terms and provisions of the agreement. However, in some instances the Department or the provider are not able to fulfill the terms of the agreement and will initiate termination before the date specified in the agreement.

Standards

Termination by the Department

- **Department's Right to Terminate**
The Department will have the right to terminate purchase of service agreements as set forth in [Rider B](#) of the agreement.
- **Written Notification Requirements**
Prior to termination of an agreement, the Department will provide a written Notice of Termination to the Provider's executive director or chief operating officer. Copies of the Notice of Termination will be sent to the DAFS Division of Purchases and the DHHS Division of Audit, as well as applicable management. The [Notice of Termination](#) will contain the following.
 - the date that the letter is sent to the provider;
 - the Department's decision to terminate the agreement;
 - the effective date of the action;
 - the reason(s) for termination;
 - the effect(s) on funding and payments;
 - any other information as prescribed by the Department

Termination by the Provider

- **Provider's Right to Terminate**
The provider's request to terminate an agreement will be submitted in writing to the Department Agreement Administrator, at least thirty (30) days in advance. The provider will fulfill all program requirements stipulated in the agreement prior to terminating service to Department funded clients.
- **Service Transition**
The provider will coordinate with the Department and applicable provider(s) to transition client services. Client transition is a joint responsibility.

4.4 AGREEMENT REPORTING

Purpose

Agreements generally contain reporting requirements for the purpose of monitoring the financial status, service delivery progress, deliverables, and other performance requirements of the agreement. Agreements for Special Services do not generally contain reporting requirements due to the lesser scope and funding associated with casual and intermittent services.

Standards

Compliance with Federal and State Reporting Requirements

The Department and provider will comply with all federal and state reporting requirements applicable to the funding sources contained in agreements between the Department and provider.

Reporting Requirements for Agreements to Purchase Services

Reports and report due dates will be determined by the Department and will be listed in [Rider A](#) of the agreement. Agreements to purchase services may require one or more of the following reports.

- **[Quarterly Report of Revenue and Expenses](#)**
This report provides a periodic accounting of program income received and expenses incurred for the report period in comparison to the approved budget.
 - [Quarterly Financial Reports Process for Adjustments](#)
 - [Quarterly Financial Reports Process for Amendments](#)
- **[Agreement Closeout Report](#)**
This report reconciles agreement payments to the amount of agreement funds earned in accordance with the settlement terms set forth on the Agreement Settlement Form Pro Forma contained in [Rider F-1](#) of the agreement. This is a **pre-audit** settlement of the agreement.
 - [Agreement Closeout Reconciliation Process](#)
- **Service Encounter Reporting**
This reporting documents the type, date, unit and cost of services provided throughout the agreement period.
- **Performance Based Contracting Report**
This report measures the progress toward achievement of the performance indicators or deliverables contained in Rider A of the agreement.
- **Other Reports**
Other reports may be required by federal and state funding sources or the Department in execution of the terms of the agreement or to fulfill its statutory requirements.

Report Format

All reports will be completed by the provider in the format provided by the Department Agreement Administrator and will be submitted to the Department Agreement Administrator by the due dates. All reports submitted by the provider will be accurate and complete.

Timely Submission, Completeness, and Accuracy

The Department Agreement Administrator will monitor the receipt of all reports for timely submission and review all reports for completeness and accuracy. As needed, reports may be further reviewed by other applicable staff. The Department Agreement Administrator will return all incomplete or erroneous reports to the provider for completion or correction along with an explanation of the deficiencies.

Review of Performance

- The Department Agreement Administrator will review required reports to determine the provider's financial performance relating to the agreement and will contact the provider concerning resolution of issues identified in the reports.
- The Program Administrator will review required reports to determine the provider's performance regarding service delivery and will contact the provider concerning resolution of issues identified in the reports.

Stop Payment

When a provider fails to submit a report by the due date as stipulated in Rider A of the agreement or submits a report that is inaccurate or incomplete, the Department Agreement Administrator will notify the provider that payment on the agreement will cease pending receipt of the missing and/or corrected report.

4.5 PAYMENT AND SETTLEMENT

Purpose

The Department, as an administrative agency for federal and state funds, will maintain a process for payment approval and financial settlement.

Payment Standards

Agreement Payments

No agreement payments will be made prior to the encumbrance of agreement funds. Payments will be applied to services delivered during the effective dates of the agreement and may not be used to pay for costs incurred prior to or subsequent to the effective dates of the agreement.

Agreement Amount

The Department will not pay the provider in excess of the agreement amount stipulated in [Rider B](#) of the agreement.

Availability of Funds

Payments to the provider will be subject to the availability of funds from state and federal appropriations.

Method of Payment

The Department will issue and/or adjust payments to the provider according to the method specified in [Rider B](#) of the agreement.

Agreement Approval and Encumbrance

Payments to the provider will be authorized only when the agreement is approved for funding and funds are encumbered by the State Controller as provided in [Section 2](#), Subsection 2.4 of this manual.

Payment Authorization

Payment to the provider will require authorization by the Department Agreement Administrator. If a payment schedule is specified in [Rider B](#) of the agreement, the Department Agreement Administrator will prepare and approve an invoice. If a payment schedule is not specified in Rider B of the agreement, the provider will submit an original invoice for approval.

Services to Ineligible Recipients

When it is determined by the Department Agreement Administrator that services have been provided in violation of the eligibility requirements contained in Rider A and Rider E of the agreement, the Department will adjust payments.

Unauthorized Services

The Department will not pay for services that are not authorized in the agreement.

Stop Payment

The Department Agreement Administrator reserves the right to stop payments to the provider for noncompliance with the terms of the agreement as well as noncompliance with the terms of previous agreements, such as nonsubmission or rejection of financial statements or corrective action plans for audit, or unpaid balances from a previous agreement. Prior to taking this action, the Department Agreement Administrator will notify the provider.

Offset Rights

The Department may exercise its offset rights as described in [Rider B](#) of the agreement when

- the provider fails to return agreement funds due the Department as indicated on the Agreement Closeout Report
- the provider fails to return agreement funds due the Department as specified in an examination report transmittal issued by the Department in accordance with MAAP

Payments to the provider may cease until the outstanding amount is recovered.

Payment Adjustments

For cost shared agreements, the Department may adjust the scheduled payment, based on the quarterly financial report specified in Rider A of the agreement, when there is an over- or under-expenditure of budgeted funds or an over- or under-delivery of services for 3 consecutive months. Adjustments will be

reflected in the subsequent monthly payment. The amount of the adjustment is calculated from the quarterly financial report.

Settlement Standards

Agreement Closeout Report

When required in Rider A, the provider will complete an Agreement Closeout Report within sixty (60) days after the agreement termination date. If a MAAP audit is applicable, the Agreement Closeout Report is a preliminary financial settlement of the agreement that reconciles total Department agreement payments issued to the provider to the total amount of Department agreement funds earned by the provider. If a MAAP audit is not applicable, the Agreement Closeout Report is the final settlement of the agreement. The Department Agreement Administrator may approve provider submissions, but has no authority to relieve the provider from being audited according to MAAP and federal regulations in cases where this approval may be counter to the MAAP and federal regulations.

- **Format**

The Agreement Closeout Report will correspond to the settlement method set forth in the Agreement Settlement Form Pro Forma contained in Rider F-1 of the agreement and will follow the standards outlined in MAAP for the Final Agreement Settlement Form.

- **Agreement Funds Due Providers**

When agreement funds are due the provider as determined by submission of the Agreement Closeout Report, the Department will issue payment to the provider not to exceed the amount of the agreement. The provider will submit an invoice for approval. The Department cannot guarantee payment on late reports.

- **Agreement Funds Due the Department**

When agreement funds are due the Department as determined by submission of the Agreement Closeout Report, the provider will include payment with submission of the Agreement Closeout Report. Interest due the Department will be submitted in a separate check at the same time. Checks are sent directly to the DHHS Service Center for processing.

MAAP Audit Requirements

Audits will be conducted as a final settlement of the agreement as required by state and/or federal regulations and the terms of the agreement. Funds provided under an agreement between the Department and a provider may be subject to the auditing requirements contained in the MAAP and may further be subject to an audit by authorized representatives of the Federal Government.

Hierarchy of Standards

The administrative requirements and cost principles contained in the OMB Circulars supersede any conflicting standards contained in this manual. However, the standards contained in this manual will prevail under one or more of the following conditions.

- the applicable OMB Circulars do not address the policy in question;
- the standards contained in this manual expand upon the requirements contained in the OMB Circulars;

- the standards contained in this manual are more restrictive than the administrative requirements and cost principles of the applicable OMB Circulars;
- state funds are statutorily appropriated to pay for items of cost that are unallowable under the cost principles contained in the Federal OMB Circulars.

Corrective Action Plan

When there is a noncompliance finding or reportable condition contained in the Audit Examination Report issued by the Department’s Division of Audit and/or cited by the provider’s independent public accountant (IPA) the provider will submit a corrective action plan to the Auditor of Record, Division of Audit, Department of Health and Human Services within thirty (30) days of the Audit Examination Report.

Corrective action plans will include the following information, using the standard form provided by the Department.

- provider’s name, program name (if applicable), the applicable agency fiscal year, and the reference number that the auditor assigned to the finding or condition;
- restatement of the finding as it appears in the IPA audit and/or Audit Examination Report;
- the name(s), job title(s), and telephone number(s) of the individual(s) responsible for carrying out the corrective action plan, the necessary steps leading to resolution along with an implementation timeline, and an anticipated completion date.

4.6 RECORD KEEPING AND RETENTION

Purpose

It is essential that the provider maintains and retains documents associated with their performance under an agreement with the Department.

Standards

Record Keeping by the Provider

The provider will retain all records applicable to administering an agreement with the Department as required by state or federal laws, rules, and regulations. These records may include:

- a copy of the approved agreement with applicable amendments and/or revisions;
- all agreement related correspondence;
- copies of site visit reports, and if applicable, provider corrective action plans and follow-up reports issued by the Department Agreement Administrator;
- copies of all other reports submitted to the Department Agreement Administrator;
- financial records that support the financial reports submitted to the Department Agreement Administrator;

- records that validate service encounters as reported to the Department Agreement Administrator;
- supporting documentation for the performance based contracting reports submitted to the Department Agreement Administrator;
- supporting documentation for all other reports submitted to the Department Agreement Administrator;
- client records;
- application forms and supporting documentation for all applicants denied service;
- documentation of background checks performed by the Federal Bureau of Investigation (FBI), State Bureau of Investigation (SBI), State Child Protective Services (CPS), Child Care Licensing and Foster Care Licensing Units of the Department, and the Division of Motor Vehicles (DMV) as required in the agreement;
- confidentiality statements signed by provider employees, subrecipients, volunteers, consultants with access to clients or client records, and authorized agents;
- all other record keeping requirements of the MAAP and the applicable OMB Circulars.

Record Keeping by Subrecipients

Subrecipients who enter into agreements with a provider to provide services funded by the Department are subject to the same record keeping standards applicable to the provider.

Provider Record Keeping on Subrecipient Agreements

The provider will retain all records applicable to administering agreements containing a subrecipient agreement paid for in part or in full with Department agreement funds. Records will include, but not be limited to, a copy of the approved subrecipient agreement with applicable amendments and/or revisions, copies of all reports submitted by the subrecipient to the provider, financial records that support the financial reports on subrecipient agreement expenses submitted to the Department Agreement Administrator by the provider, records that validate service encounters by the subrecipient as reported to the Department Agreement Administrator by the provider, and supporting documentation for all other reports to the Department Agreement Administrator that include information provided by a subrecipient.

Accessibility

Records will be organized in a manner that facilitates inspection for agreement monitoring, evaluation, and auditing purposes by state and federal officials operating within their capacity.

Provision of Records without Costs

Records will be provided at no cost to the Department and other state and federal officials when requested for agreement monitoring, evaluation, and auditing purposes. This standard will not preclude a provider from including the costs of an independent audit/compilation report and the costs associated with establishing and maintaining records in their program budget.

Appendix A

Notice of Budget Revision

Date

Provider Name and Address

Re: Agreement #
Encumbrance #

Dear

This letter is notification that your agreement requires a budget revision based upon the quarterly financial reports submitted. Deviations in excess of the approved agreement amounts are considered unallowable under the terms of the agreement and may be subject to recall or nonpayment at agreement closeout and settlement. Costs not previously approved in the budget may not be approved for reimbursement, therefore providers are encouraged to seek approval prior to incurring costs. Furthermore, failure to submit a revision may result in possible consequences upon the audit of your agreement by the Division of Audit.

It is the provider's responsibility to submit revisions according to the Maine Uniform Accounting and Auditing Practices for Community Agencies Section .04. The rule may be found at <http://www.maine.gov/sos/cec/rules/10/chaps10.htm>.

Please submit the revision prior to (date).

If you have any questions, please contact me at (telephone number).

Thank you for your prompt attention to this matter.

Sincerely,

Department Agreement Administrator

Appendix B

Notice of Disencumbrance

Date

Provider Name and Address

Re: Agreement #
Encumbrance #

Dear

The referenced agreement for the period ending (date) will be disencumbered by \$ (amount of reduction) on the effective date of (date). This reduction in the agreement amount is the result of (reason).

Please submit outstanding invoices to the Department Agreement Administrator prior to (earlier date). Invoices submitted after this date will not be processed or paid.

If you have any questions, please contact me at (telephone number).

Sincerely,

Department Agreement Administrator

cc: Purchased Services Manager
Director, DAFS Division of Purchases
Division of Audit

Appendix C

Notice of Termination

Date

Provider Name and Address

Re: Agreement #
Encumbrance #

Dear

The referenced agreement is being terminated effective (date) due to (reason). As a result, the total amount of the agreement will be \$ (new amount) for the period of (start date) to (termination date). Please submit your invoices to the Department Agreement Administrator prior to (date) for the outstanding balance of \$ (dollar amount remaining to be paid).

Costs incurred after the termination date of the agreement will not be reimbursed.

If you have any questions, please contact me at (telephone number).

Sincerely,

Department Agreement Administrator

cc: Purchased Services Manager
Director, DAFS Division of Purchases
Division of Audit

Appendix D

Weblinks

[CFDA Numbers](#)

[Department of Health & Human Services](#)

[DAFS, Division of Purchases](#)

[DHHS, Division of Purchased Services](#)

[MAAP](#)

[MaineCare](#)

[OMB Circulars](#)

[RFP Procedures Manual](#)

[Quarterly Financial Reports Process for Adjustments](#)

[Quarterly Financial Reports Process for Amendments](#)

[Agreement Closeout Reconciliation Process](#)
