

## **Subaward Agreement**

This Subaward Agreement (“Agreement”) is made and effective as of July 1, 2021, by and between Children’s Hospital of Wisconsin, Inc., a Wisconsin non-profit corporation d/b/a “Children’s Health Alliance of Wisconsin” (hereinafter referred to as “Children’s”) and \_\_\_\_\_ (insert Fiscal Agent name and hereinafter referred to as “Subrecipient”).

### **BACKGROUND**

Children’s has received a subaward from the State of Wisconsin Department of Health Services, Division of Public Health for the Wisconsin Seal-A-Smile program (“the Project”). As specified in the Grant Agreement between the State of Wisconsin Department of Health Services and Children’s for Oral Health Program (the “Grant Agreement”), Children’s desires to subgrant a portion of the Oral Health Program award to Subrecipient.

Now, therefore, in consideration of the mutual promises hereinafter stated, Children’s and Subrecipient agree as follows:

#### **1.0 Services to be Provided (“Covered Services”) by Subrecipient**

1.1 Subrecipient shall provide those services identified in the Funding Award Acceptance letter attached hereto and incorporated herein as Exhibit A (“Award Letter”). Such services shall include, but are not limited to, planning, coordinating and executing a minimum of one school-based/school-linked dental sealant event which shall include screening and administration of dental sealants, as appropriate, to children. The budget is set forth on Exhibit B, attached hereto and incorporated herein (“Budget”).

1.2 Subrecipient shall perform the Covered Services in accordance with the guidelines, policies and procedures outlined in the most current Wisconsin Seal-A-Smile Administration Manual (“Administration Manual”) and all Centers for Disease Control and Prevention (CDC), Organization for Safety Asepsis and Prevention (OSAP) and the Wisconsin Department of Health Services (DHS) which may be amended from time to time and is available at [chawisconsin.org](http://chawisconsin.org), hereby incorporated by reference.

1.3 Subrecipient shall be responsible for complying with all requirements in the Grant Agreement. For a copy of the Grant Agreement, please contact the Children’s grant administrator.

1.4 Subrecipient shall report all allowable costs plus any required matching funds stipulated in the reporting instructions for this Agreement, which are incorporated by reference in the Administration Manual.

1.5 Subrecipient shall submit expenditures on the form required by Children’s.

1.6 Subrecipient shall comply with the Department of Health Services “DHS” program reporting requirements as specified in the Grant Agreement’s Scope of Work and any required reports shall be submitted to Children’s.

1.7 Subrecipient agrees to meet State and Federal laws, rules, regulations, and program policies applicable to this Subaward Agreement.

1.8 Subrecipient agrees to comply with Public Law 103-227, also known as the Pro-Children Act of 2001, which prohibits tobacco smoke in any portion of a facility owned, leased, or granted for or by an entity that receives Federal funds, either directly or through the State, for the purpose of providing services to children under the age of 18.

1.9 Subrecipient agrees that if any materials are developed under this Agreement, that DHS and Children's shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use and to authorize others to use such materials. Any discovery or invention arising out of, or developed in the course of work aided by this Agreement shall be promptly and fully reported to Children's.

## 2.0 Compensation

2.1 As full compensation for Covered Services under this Agreement, Children's shall pay Subrecipient based on the performance based model outlined in the award letter. Subrecipient shall submit invoices to Children's at least biannually by December 31 and June 15, and not more than quarterly.

2.2 Any request for increased funding must be submitted in writing to Children's prior to expenses being incurred.

2.3 Programs should bill using the updated billing and invoice form on the SAS website.

## 3.0 Service Commitment of Subrecipient.

3.1 Subrecipient acknowledges that this Agreement is a subgrant under the terms of a grant between the State of Wisconsin and Children's. All requirements, provisions, representations and warranties required of Children's in the Grant Agreement are also required of Subrecipient as it relates to the Covered Services. If the Grant Agreement is amended, any such modifications will apply to this Agreement upon written notice to Subrecipient.

3.2 Subrecipient certifies that it and its employees, as well as any subcontracted independent contractors or consultants of Subrecipient, are duly certified and/or licensed in the State of Wisconsin as required for the provision of Covered Services. Subrecipient agrees to cooperate, and to cause its employees and such independent contractors and consultants to cooperate, with any license, credential, educational, training and experience requirements and procedures which Children's from time to time establishes.

3.3 Children's and Subrecipient agree that the protection of clients served under this Agreement is paramount to the intent of this Agreement. Subrecipient certifies that it will comply with the provisions of Wisconsin Administrative Code Chapters HFS 12 and 13, the Wisconsin Caregiver Background Check Law. Subrecipient shall ensure that a Criminal Background Check

and a Caregiver Background Check be obtained for each Subrecipient employee before they provide services under this Agreement. Subrecipient shall retain in its personnel files all pertinent information to include 1) a Background Information Disclosure (BID) form, 2) a Wisconsin Criminal History Records Request from the Department of Justice Crime Information Bureau indicating a “no record found” response or a criminal record transcript, 3) a DHFS letter that reports the status of a person’s administrative findings or license restrictions, and 4) a search for out-of-state records, tribal court proceedings and military records if indicated based on the Wisconsin Caregiver Provider Manual guidelines. Subrecipient shall also conduct a check of the Federal Sex Offender Registry. After the initial background check, Subrecipient is required to conduct a new background check every four years, or at any time within that period when Subrecipient has reason to believe a new check should be obtained.

3.4. If, at any time during this Contract, Subrecipient or Children’s are made aware of allegations of misconduct by a Subrecipient’s employee, service provision by that employee must be suspended immediately until a determination is made on the allegation. Subrecipient and Children’s will work to assure necessary services are provided to clients until a final determination is made.

3.5. Subrecipient shall provide all personnel required to perform the Covered Services pursuant to this Agreement. Such personnel shall not be employees of, or have any other contractual relationships with, Children’s.

3.6. Any change in the ability of Subrecipient to provide Covered Services shall be reported to Children’s as soon as reasonably possible. The report initially may be made orally, but in all events shall be promptly confirmed in writing by Subrecipient. Failure to provide such notice may result in termination of this Agreement. Children’s reserves the right to require that Subrecipient remove an individual employee or contractor from the provision of Covered Services pursuant to the Agreement.

3.7. Except as provided herein, Subrecipient shall determine the methods, procedures and personnel policies to be used in initiating and furnishing Covered Services to clients.

3.8. Subrecipient will cooperate with Children’s grant administrator and other Subrecipients in the provision of Covered Services to clients.

3.9. Subrecipient shall comply with any and all State and/or Federal regulations that govern the provision and documentation of, or reimbursement for, Covered Services. Subrecipient shall comply with applicable administrative policies as set for in this Agreement or as hereafter identified to Subrecipient by Children’s. Subrecipient shall also cooperate fully with Children’s in all utilization review, quality assurance, and grievance procedures required pursuant to this Agreement, and shall submit in a timely manner (if required) annual audit reports, corrective action plans, or any other requests by Children’s for additional information relating to the subject matter of this Agreement.

3.10 Subrecipient shall comply with the applicable federal requirements included or referenced.

3.11. Subrecipient shall not subcontract or assign work under this Agreement to another agency, consultant, or any other person without the prior written consent of Children's.

#### 4.0 Case Records.

4.1. Documentation/progress notes must be maintained for all Covered Services provided by Subrecipient.

4.2. Subrecipient shall allow authorized representatives from Children's to have access to all records necessary to confirm Subrecipient's compliance with the terms of this Agreement. All case records shall be treated as confidential, consistent with state and federal confidentiality requirements.

4.3. All files, records and correspondence related to Covered Services provided under this Agreement must be retained by Subrecipient for not less than ten years following the later of termination/expiration of this Agreement, or completion of any required independent audit report.

#### 5.0 Requirement to report potentially duplicative funding

5.1 The Subrecipient agrees that funds will be used to supplement, not supplant, non-federal funds that would otherwise be available for the activities under this subgrant.

5.2 If the Subrecipient currently has other active awards of federal funds, or if the Subrecipient receives any other award of federal funds during the period of performance for this award, the Subrecipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the Subrecipient must promptly notify Children's in writing of the potential duplication, and, if so requested by Children's, must seek a budget-modification to eliminate any inappropriate duplication of funding.

#### 6.0 Indemnity and Insurance.

6.1. Subrecipient to the fullest extent permitted by law hereby indemnifies and holds harmless Children's, DHS and their agents, officers and employees, from and against all loss or expense (including costs and reasonable attorneys' fees) arising from any wrongful, intentional, or negligent act or omission of Subrecipient or its employees or agents which may arise out of or are connected with the activities covered by this Agreement.

6.2. Subrecipient hereby indemnifies and holds harmless Children's, DHS and their agents, officers, and employees from and against all loss or expense (costs and reasonable attorneys' fees) arising from any action based on U.S. patent or copyright infringement regarding computer programs involved in the performance by Subrecipient of the services contemplated by this Agreement.

6.3. Subrecipient shall obtain and maintain, during the term of this Agreement, in full force and effect the insurance coverage described in this Paragraph 6.3. The minimum acceptable

limits and types of coverage shall be sufficient to cover a combined single limit per occurrence for each of the following categories of insurance:

- a. Comprehensive general liability covering the risks of bodily injury, property damage and personal injury (including death), including liability arising out of the use and operation of a motor vehicle (owned and unowned) with minimum limits of liability of \$1,000,000 per occurrence/\$1,000,000 personal and advertising injury/\$3,000,000 general aggregate.
- b. Professional liability insurance or errors and omissions insurance covering among other matters, errors and omissions of Subrecipient with respect to the provision of Covered Services under this Agreement with minimum limits of liability of \$1,000,000 per wrongful act/\$3,000,000 aggregate. If Subrecipient does not provide Professional Services as defined by insurance rules, Subrecipient must have Abuse and Molestation coverage included in the General Liability policy or as a separate policy.
- c. Workers compensation coverage in accordance with statutory requirements.

#### 7.0 Effective Date of Agreement and Termination of Agreement.

7.1. The term of this Agreement shall commence as of the day and year set forth on page 1 of this Agreement and shall continue in effect through June 30, 2021. Notwithstanding the foregoing, this Agreement may be terminated prior to the end of the term upon the occurrence of any of the following:

- a. Either Children's or Subrecipient gives not less than 60 days prior written notice of termination of this Agreement to the other; or
- b. At the election of Children's upon notice to Subrecipient, in the event of a breach by Subrecipient of a condition or covenant of this Agreement, which breach is not cured within 10 business days after written notice identifying the breach is given to Subrecipient; or
- c. At the election of Children's upon written notice to Subrecipient effective immediately, in the event termination is determined by Children's to be essential to the safety and well-being of clients or in the event of Subrecipient's failure to maintain in good standing such licenses, permits and/or certifications as may be required pursuant to this Agreement.
- d. At the election of Children's upon written notice to Subrecipient effective immediately, when Children's determines ongoing quality deficiencies, billing inconsistencies, or Subrecipient's failure to comply with reporting and/or program requirements.

- e. At the election of Children's upon written notice to Subrecipient effective immediately, when Children's determines false, inaccurate or misleading information was provided.

7.2. In the event of termination or expiration of this Agreement, (i) Children's shall be liable to Subrecipient only for Covered Services rendered through the date of termination/expiration; (ii) Subrecipient shall forthwith return to Children's all confidential information, documents and other materials held by Subrecipient for purposes of providing Covered Services under this Agreement; and (iii) Subrecipient shall assist Children's in the orderly termination of this Agreement and the transfer of all aspects hereof as may be necessary for the orderly, undisrupted continuation of Covered Services to clients.

8.0 Independent Subrecipient. Nothing contained in this Agreement shall constitute or be construed to create a partnership, joint venture or employee-employer relationship between Children's or its successors or assigns, the DHS and Subrecipient or its successors or assigns. In entering into this Agreement and in acting in compliance herewith, Subrecipient is at all times acting and performing as an independent contractor.

9.0 Assignment Limitation. This Agreement shall be binding upon and accrue to the benefit of the parties and their successors and assigns provided, however, that neither party shall assign its obligations hereunder without the prior written consent of the other.

10.0 Excluded Party Law. Subrecipient represents and warrants that neither it nor its subcontractors is excluded from receiving or being a party to any Federal contract or subcontract pursuant to any Federal statute, rule, regulation, executive order or government instruction. Notwithstanding any other provision to the contrary, Subrecipient agrees to indemnify and hold harmless Children's, its directors, officers, employees, agents and affiliates from and against any and all damages, claims, costs, expenses (including reasonable attorneys' fees), and liability related to Subrecipient being an excluded party from receiving or being a party to any such Federal contract or subcontract during the term of this Agreement.

11.0 Compliance with Laws. In entering into this Agreement, Children's is relying on Subrecipient's credentials, expertise, and experience regarding Subrecipient's products and/or services. Subrecipient represents and warrants that the products and/or services provided by it and its subcontractors shall be consistent with the professional standards of diligence, care, and skill currently recognized in its profession, and shall comply with all applicable federal and state laws and regulations including but not limited to the Occupational Safety and Health Act of 1970.

12.0 Affirmative Action. As required by Wisconsin's Contract Compliance Law, Wis. Stat. § 16.765 and Wis. Admin. Code § Adm 50.04, the Sub-recipient must agree to equal employment and affirmative action policies and practices in its employment programs: The Sub-recipient agrees to make every reasonable effort to develop a balance in either its total workforce or in the project-related workforce that is based on a ratio of work hours performed by handicapped persons, minorities, and women except that, if the department finds that the Sub-recipient is allocating its workforce in a manner which circumvents the intent of this chapter, the Department may require the Sub-recipient to attempt to create a balance in its total workforce. The balance shall be at least proportional to the percentage of minorities and women present in the

relevant labor markets based on data prepared by the Department of Industry, Labor and Human Relations, the Office of Federal Contract Compliance Programs or by another appropriate governmental entity. In the absence of any reliable data, the percentage for qualified handicapped persons shall be at least 2% for whom a Sub-recipient must make a reasonable accommodation.

The Sub-recipient must submit an Affirmative Action Plan within fifteen (15) working days of the signed Agreement. Exemptions exist, and are noted in the Instructions for Sub-recipients posted on the following website: <http://vendornet.state.wi.us/vendornet/contract/contcom.asp>

The Sub-recipient must submit its Affirmative Action Plan or request for exemption from filing an Affirmative Action Plan to:

Department of Health Services  
Division of Enterprise Services  
Bureau of Strategic Sourcing  
Affirmative Action Plan/CRC Coordinator  
1 West Wilson Street, Room 672  
P.O. Box 7850 Madison, WI 53707  
[dhscontractcompliance@dhs.wisconsin.gov](mailto:dhscontractcompliance@dhs.wisconsin.gov)

13.0 Civil Rights Compliance. As required by Wis. Stat. § 16.765, in connection with the performance of work under this Contract, the Sub-recipient agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Wis. Stat. § 51.01 (5), sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Sub-recipient further agrees to take affirmative action to ensure equal employment opportunities. The Sub-recipient agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

The Sub-recipient must file a Civil Rights Compliance Letter of Assurance (CRC LOA) for the compliance period of January 1, 2014 through December 31, 2017, within fifteen (15) working days of the effective date of the Contract. If the Sub-recipient employs fifty (50) or more employees and receives at least \$50,000 in funding, the Sub-recipient must complete a Civil Rights Compliance Plan (CRC Plan). The current Civil Rights Compliance Requirements and all appendices for the Civil Rights Compliance period of January 1, 2014, to December 31, 2017, is hereby incorporated by reference into this Agreement and is enforceable as if restated herein in its entirety. The Civil Rights Compliance Requirements, including the template and instructions, for the CRC Plan can be found at <https://www.dhs.wisconsin.gov/civil-rights/requirements.htm> or by contacting:

Department of Health Services Civil Rights Compliance  
Attn: Attorney Pamela McGillivray  
1 West Wilson Street, Room 651  
P.O. Box 7850

Madison, WI 53707-7850  
Telephone: (608) 266-1258 (Voice)  
711 or 1-800-947-3529 (TTY)  
Fax: (608) 267-1434  
Email: [DHSCRC@dhs.wisconsin.gov](mailto:DHSCRC@dhs.wisconsin.gov)

The CRC Plan must be kept on file by the Sub-recipient and made available upon request to any representative of DHS. Civil Rights Compliance Letters of Assurances should be sent to:

Department of Health Services  
Division of Enterprise Services  
Bureau of Strategic Sourcing  
Affirmative Action Plan/CRC Coordinator  
1 West Wilson Street, Room 672  
P.O. Box 7850 Madison, WI 53707  
-or-  
[dhscontractcompliance@dhs.wisconsin.gov](mailto:dhscontractcompliance@dhs.wisconsin.gov)

The Sub-recipient agrees to cooperate with DHS in any complaint investigations, monitoring or enforcement related to civil rights compliance of the Sub-recipient or its Sub-contractor under this Agreement.

DHS agrees to coordinate with the Sub-recipient in its efforts to comply with the Sub-recipient's responsibilities under these nondiscrimination provisions.

14.0 Notices. Notices provided for in this Agreement shall be sufficient if in writing and if sent by email or mail to the respective addresses stated below in this Agreement or to such other respective addresses as the parties may designate to each other in writing.

15.0 Records. Pursuant to Section 1395(X)(V)(1)(A) of Title 42 of the United States Code, until the expiration of four (4) years after the furnishing services under this Agreement, both parties shall make available, upon written request of the Secretary of the United States Department of Health and Human Services, or any other duly authorized representative, a copy of this Agreement and such books, documents, and records as are necessary to certify the nature and extent of the costs of the services provided under this Agreement.

16.0 Modification. Except as may be expressly provided otherwise in this Agreement, this Agreement may not be amended, modified or assigned without the express written consent of both parties.

17.0 Entire Agreement. This Agreement and all attachments and exhibits referenced herein represent the entire agreement between the parties with respect to the subject matter hereof, superseding any prior agreements regarding said subject matter. In the event of a conflict between any term or condition in this Agreement and any other document related to the subject matter hereof, this Agreement shall govern.



18.0 Waiver. The delay or failure by either party in exercising any right or enforcing any provision under this Agreement at any time or for any period of time shall not constitute a waiver of that right or of such provisions, or of its right to enforce each and every provision and right thereafter.

IN WITNESS WHEREOF, the parties to this Agreement have caused this instrument to be executed by their respective authorized signers:

SUBRECIPIENT:

Signature	_____	Date	_____
Name and Title	_____		
Fiscal Agency	_____		
Address	_____		
City, State, Zip	_____		
Tax ID # (required)	_____		

CHILDREN'S HOSPITAL OF WISCONSIN, INC.:

Signature	_____	Date	_____
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Matt Crespín, MPH, RDH, Executive Director  
Children's Hospital of Wisconsin, Inc.  
Children's Health Alliance of Wisconsin 6737 West Washington Avenue, Suite 1111  
West Allis, WI 53214