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SUBGRANT

BETWEEN

**THE NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILDREN AND FAMILY SERVICES**

AND

ADMINISTRATIVE OFFICE OF THE COURTS/OFFICE OF DISPUTE RESOLUTION

This subgrant is entered into by and between the Nebraska Department of Health and Human Services, **DIVISION OF CHILDREN AND FAMILY SERVICES** (hereinafter "DHHS"), and **ADMINISTRATIVE OFFICE OF THE COURTS/OFFICE OF DISPUTE RESOLUTION** (hereinafter "AOC/ODR").

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| CFDA Title & #: | <u>G-1201NEFPSS</u> | Award Amount: | <u>1,344,041</u> |
| Award Name: | <u>Promoting Safe & Stable Families</u> | Federal Agency: | <u>Administration for Children and Families</u> |
| Issue Date: | <u>2/21/12</u> | Federal Award Identifier # | <u>93.556</u> |
| Award Date: | <u>10/1/11 to 9/30/13</u> | This award is not for research and does not include ARRA funds. | |

PURPOSE. The purpose of this subgrant is: To provide Facilitated Pre-Hearing Conferences, Permanency Review Conferences and Pre-Hearing Termination of Parental Rights Conferences.

I. PERIOD OF PERFORMANCE AND TERMINATION

- A. TERM. This award is in effect from July 1, 2012 the effective date through June 30, 2013, the completion date.
- B. TERMINATION. This subgrant may be terminated at any time upon mutual written consent or by either party for any reason upon submission of written notice to the other party at least Thirty (30) days prior to the effective date of termination. DHHS may also terminate this subgrant in accord with the provisions designated "FUNDING AVAILABILITY" and "BREACH OF SUBGRANT." In the event either party terminates this subgrant, the Subrecipient shall provide to DHHS all work in progress, work completed, and materials provided by DHHS in connection with this subgrant immediately.

II. AMOUNT OF SUBGRANT

- A. TOTAL SUBGRANT. DHHS shall pay AOC/ODR a total amount, not to exceed \$235,000.000 (two hundred thirty five thousand dollars) for the activities specified herein.
- B. PAYMENT STRUCTURE. Payment shall be structured as follows:
 - 1. Payments of \$58,750 shall be made upon submission of approved billing documents and required reports on or about October 1, 2012, January 1, 2013, and April 1, 2013, and June 30, 2013.

2. This amount represents annually a minimum of 550 Pre-Hearing Conferences (PHC) and 100 Pre-Hearing Permanency Review conferences (PHPR) and Pre-Hearing Termination of Parental Rights conferences (PHTPR). 6.5% of the annual sub-grant shall be allocated to AOC/ODR for administrative, educational and evaluative functions performed by AOC/ODR or authorized subcontractors.

- C. BUDGET CHANGES. The AOC/ODR is permitted to reassign funds from one line item to another line item within the approved budget. If funds are reassigned between line items, prior approval from DHHS is required for cumulative budget transfer requests for allowable costs, allocable to the subgrant exceeding five percent (5%) of the current total approved budget. Budget revision requests shall be submitted in writing to DHHS. DHHS will provide written notification of approval or disapproval of the request within thirty (30) days of its receipt.

III. STATEMENT OF WORK

- A. AOC/ODR agrees to provide Pre-Hearing Conferences (PHC), Pre-Hearing Permanency Review (PHPR) Conferences and Pre-Hearing Termination of Parental Rights (PHTPR) Conferences for families of state wards and to open Children and Family Services' cases upon referral by DHHS, by a provider contracted with DHHS to provide case management services for state wards, or by a local juvenile or county court.
- B. Program Standards:
 1. Pre-Hearing Conferences (PHC): AOC/ODR through its subcontractors will facilitate pre-hearing conferences for initial child welfare removal proceedings and may facilitate other conferences prior to subsequent hearings in the child welfare case. The named subcontractors will facilitate pre-hearing conferences using the Pre-Hearing Conference Protocol as approved by the *Through the Eyes of the Child Initiative* Protocol Development Committee as a guide (Attachment A).
 2. Pre-Hearing Permanency Review Conferences (PHPR): AOC/ODR through its subcontracts will conduct pre-hearing conferences to occur prior to the twelve month permanency review hearings, and other permanency review hearings (Attachment B)
 3. Pre-Hearing Termination of Parental Rights Conferences (PHTPR): AOC/ODR through its subcontracts will conduct pre-hearing conferences to occur prior to termination of parental rights. The named subcontractors will conduct these cases according to the attached protocols (Attachment C).
- C. Service Standard/Safety Standards:
 1. AOC/ODR shall ensure the safety of any family member involved in the scope of services by incorporating standards and protocols to intervene and redirect in relevant situations within its subcontracts with the named subcontractors.
 2. AOC/ODR shall ensure that suspected abuse and neglect concerns are reported to the DHHS APS/CPS Hotline (1-800-652-1999), by incorporating this requirement in its subcontracts with the named subcontractors.
- D. Results Based Accountability.

The Department will be using this contract year (FY'13) to provide the foundation for Results Based Accountability for all the Department's contracts. The goal is to use this FY to develop the points below so that when contracts are being prepared for FY'14, all the performance measures and reporting strategies are in place.

The Department and AOC/ODR will:

1. Negotiate performance measures for outcomes that are aligned with our Child and Family Services Review Protocol;
2. Develop and adopt continuous improvement strategies for services performed and outlined in this contract;
3. Simplify and make efficient the performance reporting requirements;
4. Develop schedule for desk audit/field audit over the contract year; and
5. Develop regular feedback loop with contractor for ideas to improve the system and discuss what the Department and Contractor can do collaboratively to improve the overall system.

All 5 Results Based Accountability expectations will be completed no later than 60 days prior to the FY14 renewal process.

E. Administrative Standards:

1. AOC/ODR recognizes and affirms that DHHS has the final authority in all decisions for children in DHHS or DHHS-OJS custody.
2. Required Reports: AOC/ODR shall submit quarterly reports to DHHS on or before October 31, 2012 January 31, 2013, April 30, 2013 and July 31, 2013 that include the following data elements by county and by Service Area and State aggregate:

Pre-Hearing Conferences:

- a. Continuity of family relationships and connections is preserved for children.
 - (1) Number and percentage of Pre-Hearing Conference cases that result in having legal parents identified during the Pre-Hearing Conference.
 - (2) Number and percentage of children involved (directly or indirectly) in the pre-hearing conference that have a determination made as to whether there may be a potential tribal affiliation and steps to identify status defined.
 - (3) Number and percentage of children who have at least one family member or other responsible adult known to the child identified that could be pursued to provide out of home placement, if needed.
 - (4) Number and percentage of children placed outside of the parental home who have visitation scheduled between the parent and the child by the end of the Pre-Hearing Conference.
 - (5) Number and percentage of children placed outside of the parental home and not placed with siblings who have visitation scheduled between siblings by the end of the Pre-Hearing Conference.
- b. At least one parent or guardian of the child will be present at the Pre-Hearing Conference and have an opportunity to engage in dialogue about the child's needs and provide input into decisions regarding the child in the Pre-Hearing Conference.
 - (1) Number and percentage of pre-hearing conference cases that include at least one parent or guardian of the child.
 - (2) Number and percentage of the parent(s) or guardians participating in the Pre-Hearing Conferences who have participated in dialogue about their child.
 - (3) Number and percentage of the parent(s) or guardians participating in the Pre-Hearing Conferences who have provided input into decisions regarding the case.

Permanency Review and Termination of Parental Rights Conferences:

- a. Timeliness of reunification is preserved for children.

- (1) Number and percentage of Pre-Hearing Permanency Review (PHPR) cases scheduled prior to the child's 12-month or subsequent applicable permanency review hearing.
 - (2) Number and percentage of PHPR cases that address the issue of the child's discharge from foster care to reunification within the 12-month target period.
 - (3) Number and percentage of PHPR cases will address the issue of other permanency planning for the child, such as adoption and guardianship.
- b.. Timeliness of adoptions of children exiting foster care.
- (1) Number and percentage of Termination of Parental Rights conferences will be scheduled at least 14 days prior to the date of the Termination Trial/Hearing.
- c. At least one parent or guardian of the child will be present at the PHPR or PHTPR session and will have an opportunity to engage in dialogue about the child's needs and provide input into decisions regarding the child's permanency.
- (1) Number and percentage of cases that include at least one parent or guardian of the child.
 - (2) Number and percentage of the parent(s) or guardians attending who have participated in the dialogue about their child.
 - (3) Number and percentage of the parent(s) or guardians participating who have provided input into decisions regarding the case.

Should AOC/ODR be more than thirty (30) days delinquent in submitting the Performance Measures Report, AOC/ODR may be required to pay DHHS 10% of the previous quarter's payment.

3. Staff Standards:

- a. Staff Qualifications: AOC/ODR will require in its subcontracts with the named subcontractors that Pre-Hearing Conference facilitators will all be staff of, or affiliated with an Office of Dispute Resolution-approved Mediation Center.
 - 1) Staff Training: All facilitators with direct contact with families will have a minimum of thirty (30) hours of mediation training, eight (8) hours of child welfare facilitation training. Continuing mediation education of eight (8) hours of ongoing education per year on topics related to child abuse and neglect, juvenile justice, crisis management, cultural competency, role of the team, engaging families and plan development. Safety protocols to ensure safety of family members involved at Pre-Hearing Conferences will be required in the education and training.
 - 2) Staff Equivalency Determination Process:
 - (a) AOC/ODR may petition DHHS, in writing, for a determination of Equivalent Qualifications and Standards regarding a potential employee who does not meet the qualifications and standards set forth in section 1) above. The petition for Equivalent qualifications and Standards determination shall contain:
 - (1) The name of the potential employee who is the subject of the petition;
 - (2) A reference to this Sub-grant's employment qualifications and standards to be reviewed;
 - (3) A statement from AOC/ODR which sets forth its basis for believing that the potential employee meets this Sub-grant's employment qualifications and standards; and
 - (4) Supporting documentation for how the potential employee meets the employment qualifications and standards.
 - 3) Subcontractors: DHHS and AOC/ODR agree that facilitation of Pre-Hearing Conferences, Pre-hearing Permanency Review or Termination of Parental Rights Conferences will be performed by subcontractors of AOC/ODR, namely one or more of the six Administration Office of the Courts, Office of Dispute Resolution

(AOC/ODR) approved mediation centers, its staff or approved affiliates. The six AOC/ODR approved mediation centers are Central Mediation, Central Mediation Center, Concord Center, The Mediation Center, Nebraska Justice Center, and The Resolution Center. AOC/ODR will incorporate provisions of this sub-grant into its subcontracts.

IV. GENERAL TERMS AND ASSURANCES

A. ACCESS TO RECORDS AND AUDIT RESPONSIBILITIES.

1. All AOC/ODR books, records, and documents regardless of physical form, including data maintained in computer files or on magnetic, optical or other media, relating to work performed or monies received under this subgrant shall be subject to audit at any reasonable time upon the provision of reasonable notice by DHHS. AOC/ODR shall maintain all records for three (3) years from the date of final payment, except records that fall under the provisions of the Health Insurance Portability and Accountability Act (HIPAA) shall be maintained for six (6) full years from the date of final payment. In addition to the foregoing retention periods, all records shall be maintained until all issues related to an audit, litigation or other action are resolved to the satisfaction of DHHS. The AOC/ODR shall maintain its accounting records in accordance with generally accepted accounting principles. DHHS reserves and hereby exercises the right to require the AOC/ODR to submit required financial reports on the accrual basis of accounting. If the AOC/ODR's records are not normally kept on the accrual basis, the AOC/ODR is not required to convert its accounting system but shall develop and submit in a timely manner such accrual information through an analysis of the documentation on hand (such as accounts payable).
2. The AOC/ODR shall provide DHHS any and all written communications received by the AOC/ODR from an auditor related to AOC/ODR's internal control over financial reporting requirements and communication with those charged with governance including those in compliance with or related to Statement of Auditing Standards (SAS) 112 *Communicating Internal Control related Matters Identified in an Audit* and SAS 114 *The Auditor's Communication with Those Charged With Governance*. The AOC/ODR agrees to provide DHHS with a copy of all such written communications immediately upon receipt or instruct any auditor it employs to deliver copies of such written communications to DHHS at the same time copies are delivered to the AOC/ODR, in which case the AOC/ODR agrees to verify that DHHS has received a copy.
3. The AOC/ODR shall immediately commence follow-up action on findings arising from audits or other forms of review. Follow-up action includes responding to those conducting such examinations with clear, complete views concerning the accuracy and appropriateness of the findings. If the finding is accepted, corrective action, such as repaying disallowed costs, making financial adjustments, or taking other actions should proceed and be completed as rapidly as possible. If the AOC/ODR disagrees, it should provide an explanation and specific reasons that demonstrate that the finding is not valid.
4. In addition to, and in no way in limitation of any obligation in this subgrant, the AOC/ODR shall be liable for audit exceptions, and shall return to DHHS all payments made under this subgrant for which an exception has been taken or which has been disallowed because of such an exception, upon demand from DHHS.

- B. AMENDMENT. This subgrant may be modified only by written amendment executed by both parties. No alteration or variation of the terms and conditions of this subgrant shall be valid unless made in writing and signed by the parties.
- C. ANTI-DISCRIMINATION. The AOC/ODR shall comply with all applicable local, state and federal statutes and regulations regarding civil rights and equal opportunity employment, including Title VI of the Civil Rights Act of 1964; the Rehabilitation Act of 1973, Public Law 93-112; the Americans with Disabilities Act of 1990, Public Law 101-336; and the Nebraska Fair Employment Practice Act, NEB. REV. STAT. §§ 48-1101 to 48-1125. Violation of said statutes and regulations will constitute a material breach of this subgrant. The AOC/ODR shall insert this provision into all subgrants and subcontracts.
- D. ASSIGNMENT. The AOC/ODR shall not assign or transfer any interest, rights, or duties under this subgrant to any person, firm, or corporation without prior written consent of DHHS. In the absence of such written consent, any assignment or attempt to assign shall constitute a breach of this subgrant.
- E. ASSURANCE. If DHHS, in good faith, has reason to believe that the AOC/ODR does not intend to, is unable to, has refused to, or discontinues performing material obligations under this subgrant, DHHS may demand in writing that the AOC/ODR give a written assurance of intent to perform. Failure by the AOC/ODR to provide written assurance within the number of days specified in the demand may, at DHHS's option, be the basis for terminating this subgrant.
- F. BREACH OF SUBGRANT. DHHS may immediately terminate this subgrant and agreement, in whole or in part, if the AOC/ODR fails to perform its obligations under the subgrant in a timely and proper manner. DHHS may withhold payments and provide a written notice of default to the AOC/ODR, allow the AOC/ODR to correct a failure or breach of subgrant within a period of thirty (30) days or longer at DHHS's discretion considering the gravity and nature of the default. Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person with proof of delivery. Allowing the AOC/ODR time to correct a failure or breach of this subgrant does not waive DHHS's right to immediately terminate the subgrant for the same or different subgrant breach which may occur at a different time. DHHS may, at its discretion, obtain any services required to complete this subgrant and hold the AOC/ODR liable for any excess cost caused by AOC/ODR's default. This provision shall not preclude the pursuit of other remedies for breach of subgrant as allowed by law.
- G. CONFIDENTIALITY. Any and all confidential or proprietary information gathered in the performance of this subgrant, either independently or through DHHS, shall be held in the strictest confidence and shall be released to no one other than DHHS without the prior written authorization of DHHS, provided that contrary subgrant provisions set forth herein shall be deemed to be authorized exceptions to this general confidentiality provision. As required by United States Department of Health and Human Services (hereinafter "HHS") appropriations acts, all HHS recipients and DHHS AOC/ODRs must acknowledge Federal and DHHS funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal and DHHS funds. Recipients are required to state: (1) the percentage and dollar amounts of the total program or project costs financed with Federal and DHHS funds; and (2) the percentage and dollar amount of the total costs financed by nongovernmental sources. This provision shall survive termination of this subgrant.
- H. CONFLICTS OF INTEREST. In the performance of this subgrant, the AOC/ODR shall avoid all conflicts of interest and all appearances of conflicts of interest. The AOC/ODR shall

immediately notify DHHS of any such instances encountered, so that other arrangements can be made to complete the work.

- I. COST PRINCIPLES AND AUDIT REQUIREMENTS. The AOC/ODR shall follow the applicable cost principles set forth in OMB Circular A-87 for State, Local and Indian Tribe Governments; A-21 for Colleges and Universities; or A-122 for Non-Profit Organizations. Federal audit requirements are dependent on the total amount of federal funds expended by the AOC/ODR, set in the table below and Attachment 1, Audit Requirement Certification. Audits must be prepared and issued by an independent certified public accountant licensed to practice. A copy of the annual audit is to be made electronically available or sent to: Nebraska Department of Health and Human Services, Financial Services, P.O. Box 95026, Lincoln, NE 68509-5026.

| Amount of annual federal expenditure | Audit Type |
|---|----------------------------------|
| <i>\$100,000 to \$499,999</i> | <i>Financial Statement Audit</i> |
| <i>500,000 or more in federal expenditure</i> | <i>A-133 audit</i> |

- J. DATA OWNERSHIP AND COPYRIGHT. Except as otherwise provided in the Federal Notice of Award, DHHS shall own the rights in data resulting from this project or program. The AOC/ODR may copyright any of the copyrightable material and may patent any of the patentable products produced in conjunction with the performance required under this subgrant without written consent from DHHS. DHHS and any federal granting authority hereby reserve a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the copyrightable material for federal or state government purposes. This provision shall survive termination of this subgrant.
- K. DEBARMENT, SUSPENSION OR DECLARED INELIGIBLE. The AOC/ODR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- L. DOCUMENTS INCORPORATED BY REFERENCE. All references in this subgrant to laws, rules, regulations, guidelines, directives, and attachments which set forth standards and procedures to be followed by the AOC/ODR in discharging its obligations under this subgrant shall be deemed incorporated by reference and made a part of this subgrant with the same force and effect as if set forth in full text, herein.
- M. DRUG-FREE WORKPLACE. AOC/ODR agrees, in accordance with 41 USC §701 et al., to maintain a drug-free workplace by: (1) publishing a drug-free workplace statement; (2) establishing a drug-free awareness program; (3) taking actions concerning employees who are convicted of violating drug statutes in the workplace; and (4) in accordance with 2 CFR §180.230, identify all workplaces under its federal awards.
- N. FEDERAL FINANCIAL ASSISTANCE. The AOC/ODR shall comply with all applicable provisions of 45 C.F.R. §§ 87.1-87.2. The AOC/ODR certifies that it shall not use direct federal financial assistance to engage in inherently religious activities, such as worship, religious instruction, and/or proselytization.
- O. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT REPORTING. The AOC/ODR shall complete the AOC/ODR Reporting Worksheet, Attachment 2, sections B and C. The AOC/ODR certifies the information is complete, true and accurate.

- P. FORCE MAJEURE. Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under this subgrant due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of this subgrant. The party so affected shall immediately give notice to the other party of the Force Majeure Event. Upon such notice, all obligations of the affected party under this subgrant which are reasonably related to the Force Majeure Event shall be suspended, and the affected party shall do everything reasonably necessary to resume performance as soon as possible. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under this subgrant.
- Q. FUNDING AVAILABILITY. DHHS may terminate the subgrant, in whole or in part, in the event funding is no longer available. Should funds not be appropriated, DHHS may terminate the award with respect to those payments for the fiscal years for which such funds are not appropriated. DHHS shall give the AOC/ODR written notice thirty (30) days prior to the effective date of any termination. The AOC/ODR shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event, shall the AOC/ODR be paid for a loss of anticipated profit.
- R. GRANT CLOSE-OUT. Upon completion or notice of termination of this grant, the following procedures shall apply for close-out of the subgrant:
1. The AOC/ODR will not incur new obligations after the termination or completion of the subgrant, and shall cancel as many outstanding obligations as possible. DHHS shall give full credit to AOC/ODR for the federal share of non-cancelable obligations properly incurred by AOC/ODR prior to termination, and costs incurred on, or prior to, the termination or completion date.
 2. AOC/ODR shall immediately return to DHHS any unobligated balance of cash advanced or shall manage such balance in accordance with DHHS instructions.
 3. Within a maximum of 90 days following the date of expiration or completion, AOC/ODR shall submit all financial, performance, and related reports required by the AOC/ODR Reporting Requirements. DHHS reserves the right to extend the due date for any report and may waive, in writing, any report it considers to be unnecessary.
 4. DHHS shall make any necessary adjustments upward or downward in the federal share of costs.
 5. The AOC/ODR shall assist and cooperate in the orderly transition and transfer of subgrant activities and operations with the objective of preventing disruption of services.
 6. Close-out of this subgrant shall not affect the retention period for, or state or federal rights of access to, AOC/ODR records, or AOC/ODR's responsibilities regarding property or with respect to any program income for which AOC/ODR is still accountable under this subgrant. If no final audit is conducted prior to close-out, DHHS reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted at a later time.
- S. GOVERNING LAW. The award shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against DHHS or the State of Nebraska

regarding this award shall be brought in Nebraska administrative or judicial forums as defined by Nebraska State law. The AOC/ODR shall comply with all Nebraska statutory and regulatory law.

T. HOLD HARMLESS.

1. The AOC/ODR shall defend, indemnify, hold, and save harmless the State of Nebraska and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses ("the claims"), sustained or asserted against the State of Nebraska, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the AOC/ODR, its employees, consultants, representatives, and agents, except to the extent such AOC/ODR's liability is attenuated by any action of the State of Nebraska which directly and proximately contributed to the claims.
2. DHHS's liability is limited to the extent provided by the Nebraska Tort Claims Act, the Nebraska Contract Claims Act, the Nebraska Miscellaneous Claims Act, and any other applicable provisions of law. DHHS does not assume liability for the action of its AOC/ODRs.

U. INDEPENDENT ENTITY. The AOC/ODR is an Independent Entity and neither it nor any of its employees shall, for any purpose, be deemed employees of DHHS. The AOC/ODR shall employ and direct such personnel, as it requires, to perform its obligations under this subgrant, exercise full authority over its personnel, and comply with all workers' compensation, employer's liability and other federal, state, county, and municipal laws, ordinances, rules and regulations required of an employer providing services as contemplated by this subgrant.

V. REIMBURSEMENT REQUEST. Requests for payments submitted by the AOC/ODR shall contain sufficient detail to support payment. Any terms and conditions included in the AOC/ODR's request shall be deemed to be solely for the convenience of the parties.

W. INTEGRATION. This written subgrant represents the entire agreement between the parties, and any prior or contemporaneous representations, promises, or statements by the parties, that are not incorporated herein, shall not serve to vary or contradict the terms set forth in this subgrant.

X. LOBBYING.

1. AOC/ODR certifies that no Federal appropriated funds shall be paid, by or on behalf of the AOC/ODR, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this award for: (a) the awarding of any Federal agreement; (b) the making of any Federal grant; (c) the entering into of any cooperative agreement; and (d) the extension, continuation, renewal, amendment, or modification of any Federal agreement, grant, loan, or cooperative agreement.
2. If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence: an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this subgrant, the AOC/ODR shall complete

and submit Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- Y. NEBRASKA NONRESIDENT INCOME TAX WITHHOLDING. AOC/ODR acknowledges that Nebraska law requires DHHS to withhold Nebraska income tax if payments for personal services are made in excess of six hundred dollars (\$600) to any AOC/ODR who is not domiciled in Nebraska or has not maintained a permanent place of business or residence in Nebraska for a period of at least six months. This provision applies to: individuals; to a corporation, if 80% or more of the voting stock of the corporation is held by the shareholders who are performing personal services, and to a partnership or limited liability company, if 80% or more of the capital interest or profits interest of the partnership or limited liability company is held by the partners or members who are performing personal services.

The parties agree, when applicable, to properly complete the Nebraska Department of Revenue Nebraska Withholding Certificate for Nonresident Individuals Form W-4NA or its successor. The form is available at:

http://www.revenue.ne.gov/tax/current/f_w-4na.pdf or
http://www.revenue.ne.gov/tax/current/fill-in/f_w-4na.pdf

- Z. NEBRASKA TECHNOLOGY ACCESS STANDARDS. The AOC/ODR shall review the Nebraska Technology Access Standards, found at <http://www.nitc.state.ne.us/standards/accessibility/tacfinal.html> and ensure that products and/or services provided under the subgrant comply with the applicable standards. In the event such standards change during the AOC/ODR's performance, the State may create an amendment to the subgrant to request that AOC/ODR comply with the changed standard at a cost mutually acceptable to the parties.

- AA. NEW EMPLOYEE WORK ELIGIBILITY STATUS. The AOC/ODR shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the AOC/ODR is an individual or sole proprietorship, the following applies:

1. The AOC/ODR must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at www.das.state.ne.us.
2. If the AOC/ODR indicates on such attestation form that he or she is a qualified alien, the AOC/ODR agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the AOC/ODR's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The AOC/ODR understands and agrees that lawful presence in the United States is required and the AOC/ODR may be disqualified or the subgrant terminated if such lawful presence cannot be verified as required by NEB. REV. STAT. § 4-108.

- BB. PUBLICATIONS. AOC/ODR agrees that all publications that result from work under this subgrant will acknowledge that the project was supported by "Grant No. XXXX" under a subgrant from "Federal Agency" and DHHS.

- CC. PROGRAMMATIC CHANGES. The AOC/ODR shall request in writing to DHHS for approval of programmatic changes. DHHS shall approve or disapprove in whole or in part in writing within thirty (30) days of receipt of such request.
- DD. PROMPT PAYMENT. Payment shall be made in conjunction with the State of Nebraska Prompt Payment Act, NEB. REV. STAT. §§ 81-2401 through 81-2408. Unless otherwise provided herein, payment shall be made by electronic means.

Automated Clearing House (ACH) Enrollment Form Requirements for Payment.

The AOC/ODR shall complete and sign the State of Nebraska ACH Enrollment Form and obtain the necessary information and signatures from their financial institution. The completed form must be submitted before payments to the AOC/ODR can be made.

Download ACH Form:

http://www.das.state.ne.us/accounting/nis/address_book_info.htm

- EE. PUBLIC COUNSEL. In the event AOC/ODR provides health and human services to individuals on behalf of DHHS under the terms of this award, AOC/ODR shall submit to the jurisdiction of the Public Counsel under NEB. REV. STAT. §§ 81-8,240 through 81-8,254 with respect to the provision of services under this subgrant. This clause shall not apply to subgrants between DHHS and long-term care facilities subject to the jurisdiction of the state long-term care ombudsman pursuant to the Long-Term Care Ombudsman Act.
- FF. RESEARCH. The AOC/ODR shall not engage in research utilizing the information obtained through the performance of this subgrant without the express written consent of DHHS. The term "research" shall mean the investigation, analysis, or review of information, other than aggregate statistical information, which is used for purposes unconnected with this subgrant.
- GG. SEVERABILITY. If any term or condition of this subgrant is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this subgrant did not contain the particular provision held to be invalid.
- HH. SMOKE FREE. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable Federal funds in Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. By signing, the AOC/ODR certifies that the AOC/ODR will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.
- II. AOC/ODRS OR SUBCONTRACTORS. The AOC/ODR shall not subgrant or subcontract any portion of this award without prior written consent of DHHS. The AOC/ODR shall ensure

that all subcontractors and AOC/ODR s comply with all requirements of this subgrant and applicable federal, state, county and municipal laws, ordinances, rules and regulations.

JJ. TIME IS OF THE ESSENCE. Time is of the essence in this subgrant. The acceptance of late performance with or without objection or reservation by DHHS shall not waive any rights of DHHS nor constitute a waiver of the requirement of timely performance of any obligations on the part of the AOC/ODR remaining.

NOTICES. Notices shall be in writing and shall be effective upon receipt. Written notices, including all reports and other written communications required by this subgrant shall be sent to the following addresses:

FOR DHHS:

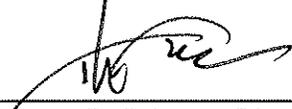
Christine M. Hanus
NE Department of Health & Human Services
PO Box 95026
Lincoln, NE 68509-5026
402-471-9308

FOR AOC/ODR :

Janice Walker
State Court Administrator
P.O. Box 98910
Lincoln, NE 68509-8910
402-471-3730

IN WITNESS THEREOF, the parties have duly executed this subgrant hereto, and each party acknowledges the receipt of a duly executed copy of this subgrant with original signatures.

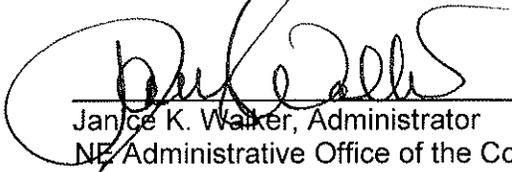
FOR DHHS:



Thomas D. Pristow, Director
Division of Children and Family Services

DATE: 1/16/12

FOR AOC/ODR:



Janice K. Walker, Administrator
NE Administrative Office of the Courts

DATE: 1-6-12

**NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILDREN AND FAMILY SERVICES
AUDIT REQUIREMENT CERTIFICATION**

AOC/ODR and certain contractors receiving funds from the Nebraska Department of Health and Human Services are required to complete this document. Reference to the Office of Management and Budget Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, in this document is "Circular A-133".

Grant Name *Promoting Safe and Stable Families* **Grant #***G-1201NEFPSS* **CFDA*** *#93.556*
*(Catalog of Federal Domestic Assistance)

Contractor's Name Administrative Office of the Courts / Office of Dispute Resolution
Address: P.O. Box 98910

City: Lincoln **State:** NE **Zip Code:** 68509-8910

Federal Tax Identification Number (FTIN) 47-0491233

Contractor's Fiscal Year July 1, 2012 to June 30, 2013

All written communications from the Certified Public Accountant (CPA) engaged under #1 or #2 below, given to the contractor related to Statement of Auditing Standards (SAS) 112 *Communicating Internal Control related Matters Identified in an Audit* and SAS 114 *The Auditor's Communication with Those Charged With Governance* and any additional reports issued by the auditor as a result of this engagement must be provided to the DHHS immediately upon receipt, unless the AOC/ODR or contractor has directed the CPA to provide the copy directly to the DHHS and has verified this has occurred.

Check either 1 or 2

1. As the AOC/ODR or contractor named above, we expect to expend less than \$500,000 from all Federal Financial Assistance sources, not just the grant named above, and including commodities in our current fiscal year. Therefore, we are not subject to the audit requirements of Circular A-133.

We are, however, responsible for engaging a licensed Certified Public Accountant (CPA) to conduct an audit of our organization's financial statements if we have total federal expenditures over \$100,000. We acknowledge the audit must be completed no later than nine months after the end of our organization's current fiscal year. A copy of the report must be submitted to DHHS address as shown below within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period.

2. As the AOC/ODR or contractor named above, we expect to expend \$500,000 or more from all Federal Financial Assistance sources, not just the grant named above, and including commodities in our current fiscal year. Therefore, we are subject to the single audit requirements of Circular A-133.

We will engage a licensed Certified Public Accountant to conduct and prepare the audit of our organization's financial statements and components of the single audit pertaining to those financial statements. We acknowledge the audit must be completed no later than nine months after the end of our current fiscal year.

We further acknowledge, that a single audit performed in accordance with Circular A-133 must be submitted to the Federal Audit Clearinghouse. The reporting package, as evidence the audit was completed must contain:

- financial statements,
- a schedule of Expenditure of Federal Awards,
- a Summary Schedule of Prior Audit Findings (if applicable),
- a corrective action plan (if applicable) and
- the auditor's report(s) which includes an opinion upon financial statements and Schedule of Expenditures of Federal Awards, a report of internal control, a report of compliance and a Schedule of Findings and Questioned Costs.

We further acknowledge the auditor and this contractor or AOC/ODR must complete and submit with the reporting package a *Data Collection Form for Reporting on Audits of States, Local Governments and Non-Profit Organizations* (SF-SAC).

We further acknowledge a copy of the contractor's financial statements, auditor's report and SF-SAC must be submitted, at the time these documents are submitted to the Federal Audit Clearinghouse, to:

Nebraska Department of Health and Human Services
Financial Services
Grants and Cost Management
P.O. Box 95026
Lincoln, NE 68509-5026

The foregoing submissions must be made within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period.

Subrecipient Reporting Worksheet

Section A – Federal Award Information

Federal Award Identifier Number (FAIN) G-1201NEFPSS

Federal Awarding Agency Name Administration for Children and Families

Award Date 10/1/11 to 9/30/13

CFDA Program Number 93.556

Subgrant Amount From This

Total Federal Funding Amount \$1,344,041

Award: \$235,000

**See instructions if the subgrant is funded from more than one funding source*

Section B – Subrecipient Information

Subrecipient DUNS 619132892

Subrecipient Name Administrative Office of the Court/Office of Dispute Resolution

Subrecipient Address: Street P. O. Box 98910

City Lincoln State NE

Country USA Zip Code + 4 68509-8910

Congressional District 1

Amount of Subgrant \$ 235,000 Subgrant Date July 1, 2012

Subrecipient Principal City Lincoln State NE

Place of Performance:

Country USA Zip Code + 4 68509-8910

Congressional District 1

Subgrant Number _____ (Will be completed by Support Services)

Subgrant Project Description The purpose of this subgrant is: To provide Facilitated Pre-Hearing Conferences, Permanency Review Conferences and Pre-Hearing Termination of Parental Rights Conferences.

Section C – Officer Compensation

1. In your business or organization's previous fiscal year, did your business organization (including parent organization, all branches, and all affiliates worldwide) receive 80% or more of your annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements AND \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

Yes – answer Question 2

X No – not required to provide officer compensation

2. Does the public have access to information about the compensation of the senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

Yes – not required to provide officer compensation

No – provide the names and total compensation of the five most highly compensated officers of the entity below

| | | |
|----|------|--------------------------|
| 1. | | \$ _____ Compensation |
| | Name | |
| 2. | | \$ _____ Compensation |
| | Name | |
| 3. | | \$ _____ Compensation |
| | Name | |
| 4. | | \$ _____ Compensation |
| | Name | |
| 5. | | \$ _____ Compensation |
| | Name | |

Section A – Federal Award Information (Continuation)

Use this page only if the subgrant is being funded by multiple sources (multiple federal grants or a combination of federal and state funds)

| | |
|--|---------------------------|
| Federal Award Identifier Number (FAIN) _____ | |
| Federal Awarding Agency Name _____ | Award Date _____ |
| CFDA Program Number _____ | Subgrant Amount From This |
| Total Federal Funding Amount \$ _____ | Award: \$ _____ |

| | |
|--|---------------------------|
| Federal Award Identifier Number (FAIN) _____ | |
| Federal Awarding Agency Name _____ | Award Date _____ |
| CFDA Program Number _____ | Subgrant Amount From This |
| Total Federal Funding Amount \$ _____ | Award: \$ _____ |

| | |
|--|---------------------------|
| Federal Award Identifier Number (FAIN) _____ | |
| Federal Awarding Agency Name _____ | Award Date _____ |
| CFDA Program Number _____ | Subgrant Amount From This |
| Total Federal Funding Amount \$ _____ | Award: \$ _____ |

| | | |
|--|------------------|--------------------------------|
| Amount funded from Federal Grants | <u>\$235,000</u> | total of grants in Section A |
| Amount funded from State General Funds | \$ _____ | |
| Amount funded from State Cash Funds | \$ _____ | |
| Amount funded from Federal Cash Funds | \$ _____ | fed sources other than grants |
| Total amount funded from all sources | <u>\$235,000</u> | should equal total of subgrant |



PERMANENCY PRE-HEARING CONFERENCE PROTOCOL

Pilot Project: DHHS-AOC/ODR

Definition

The Permanency PHC (PPHC) is a structured facilitated discussion among all parties that focuses on critical questions that need to be answered at an upcoming permanency hearing.

Purpose

The purpose of the PPHC is to bring the parties together to gather information and determine what information is still needed prior to the Permanency Hearing so that (a) the Court has sufficient detailed information to make a permanency decision that is in the child's best interests regarding the child's safety, well being, and timely permanency and (b) the parties have the opportunity to discuss what permanency plans will be proposed to the Court and what steps need to be made to accomplish the plans. The PPHC may result in an agreement among the parties regarding the permanency plan that can be presented to the Court but that is not the main purpose. Even if there is no agreement, the PPHC participants should address all the questions that correspond with the relevant permanency plan (detailed below) and that information should be presented to the Court.

Court permanency review

The Court must convene a Permanency Hearing for each child in the foster care system a minimum of every twelve months after the child enters foster care. The Court is required to determine what the permanency plan shall be for the child, namely: reunification, adoption, or guardianship. The Court is should determine that the permanency plan sets forth what steps are to occur to make sure that the plan is realized.

When

Optimally, the PPHC should be held at least 6-8 weeks prior to the permanency hearing so that there is sufficient time for the parties to gather or provide any missing information that is needed to respond to the following questions and to ensure that all court ordered services have been provided.

Who attends

The PPHC should be attended by the parents and their attorney(s), older children and youth, caseworker, guardians ad litem, relatives, foster parents, the county attorney,

and the family support worker.

Confidentiality and privilege

The PPHC is governed by Neb. Rev. Stat. section 43-247.01 in regard to confidentiality and privilege. This provision states in part: "All discussions taking place during such facilitated conferences, including plea negotiations, shall be considered confidential and privileged communications, except communications required by mandatory reporting under section 28-711 for new allegations of child abuse or neglect which were not previously known or reported."

Facilitator

The facilitator(s) for the PPHC of the pilot project between DHHS and AOC/ODR shall be trained, proficient child welfare facilitators affiliated with an ODR-approved mediation center. The facilitator will have a minimum of 30 hours of basic mediation training; have 8 or more hours of child welfare facilitation training; and 8 hours of continuing education per year on topics related to child abuse and neglect, juvenile justice, permanency planning, crisis management, cultural competency, role of the team, engaging families, or plan development.

Pre-conference preparations

The judge should order the PPHC at the hearing that precedes the Permanency Hearing. All parties are expected to come to the PPHC with information that responds to the questions that will be covered in the PPHC and that are listed in the appendix. Attorneys should prepare their clients for the PPHC. The ODR-approved mediation center will assist with case management and preparation for the PPHC, including determining which parties should attend, when and where scheduled, and preparing the parties for the conference. The affiliated PPHC facilitator should review the court file prior to the PPHC.

Conference

- 1) **Introduction:** The facilitator explains the process and each attendee introduces him/herself and his/her role in the legal case or in the child's life. If there is not a designated "scribe" the facilitator should ask one of the professionals to take notes. The facilitator provides information about confidentiality and privilege for communications during the conference.
- 2) **Updates on the child(ren):** The following should be covered for each child in the family
 - a. Updates on health and educational information for each child.
 - b. A description of each child's current placement and behavior.
 - c. A description of the services provided to each child, the progress the child has made and issues that still need to be addressed, including cultural needs.
 - d. If a sibling group, information on the status of the relationship and contact between siblings, including half siblings.
- 3) **Updates on the Parents**
 - a. A description of the services provided to each parent, the progress the

parent has made and issues that still need to be addressed.

- b. A description of the contact that the parents have had with each child in the family.

4) **Discussion of Permanency Plan recommendation:** The caseworker should present DHHS's recommendation for the permanency plan and why. Other parties should briefly discuss their agreement or disagreement with the DHHS's plan.

5) **Addressing Permanency Plan Questions:** If there is consensus at the PPHC regarding the Permanency Plan, then only the questions for that plan need to be addressed at the PPHC. If there is not agreement, each plan that will be recommended by a party to the court should be addressed. All questions, if relevant, associated with the Permanency Plan should be addressed. Questions are provided in Appendix A.

6) **Discussion of next steps:**

- a. Clarification of any information that is still missing, court ordered services that have not been provided, or non-court required changes to details of current plan (e.g., move to overnight visits). Designate person who is responsible for addressing each part and a timeline.
- b. Discussion of any other activities/plans that will occur prior to permanency hearing (e.g. caseworker will provide information to county attorney and guardian ad litem about how overnight visits have gone; referral will be made for full family group conference if reunification is not the recommended plan and there is no good alternative permanency plan that is available.) Designate person who is responsible for each part and a timeline.
- c. Determination of what information should be provided to the court and by whom.

Appendix A

Questions for PPHC¹

IF REUNIFICATION IS RECOMMENDED:

- How have the conditions or circumstances leading to the removal of the child(ren) been corrected?
- Why is this plan in the best interest of the child(ren)?
- How often is parent-child contact occurring and what is the impact on the child(ren)?
- What is the date and detailed plan for the child(ren)'s safe return home and follow-up supervision after family reunification?
- What are the plans to continue any necessary services to the child(ren)?
- What are the plans to continue any necessary services to the family?
- If a change in school will occur, what will be done to prepare for the transition?

IF TERMINATION OF PARENTAL RIGHTS (TPR) AND ADOPTION ARE RECOMMENDED:

- What are the facts and circumstances supporting the grounds for termination?
- What reasonable efforts were made to reunify?
- Why is this plan in the best interest of the child(ren)?
- Has the petition been filed and if not, what is the date it will be filed?
- Are there relatives who will adopt the child if TPR is granted? If so, is the child living with the relative? If not, why not? If there are no relatives willing and able to adopt, why not?
- If relative adoption is not the plan, is adoption by the foster parents the plan? If not, why not?
- If an adoptive home must be recruited, what efforts are being made to identify potential adoptive homes both locally and in other jurisdictions? Are there adults with whom the child has a positive relationship and are they potentially adopting families?
- Will adoption with contact be recommended and why or why not?
- What counseling will occur to assist the child to deal with this change of plan?
- If the child is an Indian child, have ICWA requirements been met?

IF PERMANENT GUARDIANSHIP OR PERMANENT CUSTODY IS RECOMMENDED:

- Why is this option preferable to TPR and adoption? Why is it in the best interest of the child(ren)?
- What reasonable efforts were made to reunify?
- What are the facts and circumstances demonstrating the appropriateness of the individual or couple to serve as permanent family to the child(ren)? Is there another person who spends significant time in the home, and if so, has that individual been interviewed for appropriateness?

¹ These questions are recommended for judges to consider in permanency hearings (*Adoption and Permanency Guidelines*, National Council of Juvenile and Family Court Judges, 2000). The PPHC provides an opportunity to gather this information and deal with unresolved issues prior to the permanency hearing to improve the quality and depth of the hearing and to promote timely permanency that is in the child(ren)'s best interest.

- Has there been full disclosure to the family of the child(ren)'s circumstances and special needs?
- What is the plan to ensure that this will be a permanent home for the child(ren)?
- What contact will occur between the child(ren) and parents, siblings, and other family members?
- What financial support will be provided by the biological parents?
- What are the plans to continue any necessary services to the child(ren)? How will these services be funded after the guardianship or custody has been granted?
- If the child(ren) are not already placed in the home, why not and:
 - How often is parent-child contact occurring and what is the impact on the child(ren)?
- What is the date and detailed plan for the child(ren)'s placement in this home and follow-up supervision after placement?
- If a change in school will occur, what will be done to prepare the transition?
- Will the state continued to offer any financial assistance to the guardians once finalized?

IF ANOTHER PLAN IS BEING RECOMMENDED:

- What are the compelling reasons not to proceed with reunification, TPR, adoption, permanent guardianship or permanent custody? What is the plan, and why is this plan in the child(ren)'s best interest?
- What reasonable efforts were made to reunify the child(ren) with the parent(s)?
- How will this plan provide stability and permanency for the child(ren)?
- What contact will occur between child(ren) and parents, siblings and other family members?
- What are the plans to continue any necessary services to the child(ren)?
- If the child is a teenager, what is the plan to prepare the child for independent living?
- If the child(ren) are not already placed in a home, why not and:
 - How often is parent-child contact occurring and what is the impact on the child(ren)?
- What is the date and detailed plan for the child(ren)'s placement in this home and follow-up supervision after placement?
- If a change in school will occur, what will be done to prepare the transition?



**PRE-HEARING
TERMINATION OF PARENTAL RIGHTS CONFERENCE PROTOCOL
Pilot Project: DHHS-AOC/ODR**

Definition

The Pre-Hearing Termination of Parental Rights Conference (PHTPR) is a structured facilitated discussion among all parties that focuses on critical questions that need to be answered at an upcoming termination of parental rights hearing.

Purpose

The purpose of the PHTPR is to bring the parties together to gather information and determine whether the case is ready for trial regarding terminating parental rights and to provide the parties an opportunity to explore non-trial alternatives, all with the primary focus on the need for permanency for the child that are in the child's best interests. The PHTPR may result in an agreement among the parties regarding the permanency plan that can be presented to the Court but that is not the main purpose. Even if there is no agreement, the PHTPR participants should address all the questions that correspond with the questions of termination of parental rights and the child's permanency plan (detailed below). This information may be provided to the Court.

When

Optimally, the PHTPR should be held at least 6-8 weeks prior to the termination of parental rights hearing so that there is sufficient time for the parties to gather or provide any missing information that is needed to respond to the following questions.

Who attends

The PHTPR may be attended by two or more of the following parties: the parents and their attorneys; older children and youth and their attorneys; caseworker; guardians ad litem; relatives; foster parents; the county attorney.

Confidentiality and privilege

The PHTPR is governed by Neb. Rev. Stat. section 43-247.01 in regard to confidentiality and privilege. This provision states in part: "All discussions taking place during such facilitated conferences, including plea negotiations, shall be considered confidential and privileged communications, except communications required by mandatory reporting under section 28-711 for new allegations of child abuse or neglect which were not previously known or reported."

Facilitator

The facilitator(s) for the PHTPR of the pilot project between DHHS and AOC/ODR shall be trained, proficient child welfare facilitators affiliated with an ODR-approved mediation center. The facilitator will have a minimum of 30 hours of basic mediation training; have 8 or more hours of child welfare facilitation training; and 8 hours of continuing education per year on topics related to child abuse and neglect, juvenile justice, termination of parental rights, permanency planning, crisis management, cultural competency, role of the team, engaging families, or plan development.

Pre-conference preparations

The judge should order the PHTPR as soon as practicable in reference to the actual or anticipated filing of a Petition for Termination of Parental Rights. The PHTPR should be held within 14 days of the filing of the Petition for Termination of Parental Rights. All parties are expected to come to the PHTPR with information that responds to the questions that will be covered in the PHTPR and that are listed in the appendix. Attorneys should prepare their clients for the PHTPR. The PHTPR facilitator should review the court file prior to the conference. The ODR-approved mediation center will assist with case management and preparation for the PHTPR, including determining which parties should attend, when and where scheduled, and preparing the parties for the conference. The affiliated PHTPR facilitator should review the court file prior to the conference.

Conference

- 1) **Introduction:** The facilitator explains the process and each attendee introduces him/herself and his/her role in the legal case or in the child's life. If there is not a designated "scribe" the facilitator should ask one of the professionals to take notes. The facilitator provides information about confidentiality and privilege for communications during the conference.
- 2) **Updates on the child(ren):** The following should be covered for each child in the family
 - a. A description of each child's current placement and behavior.
 - b. If a sibling group, information on the status of the relationship and contact between siblings, including half siblings.
- 3) **Updates on the parents**
 - a. A description of the services provided to each parent, the status of the progress or the lack thereof the parent has made in regard to permanency.
 - b. A description of the contact that the parents have had with each child in the family.
- 4) **Discussion of recommendation of termination of parental rights:** The party that filed the Petition should present its recommendation for termination of parental rights and recommended permanency and explain why. Other parties should briefly discuss their agreement or disagreement with the request for termination of parental rights and recommended permanency.
- 5) **Addressing permanency plan questions:** If there is consensus at the PHTPR

regarding the ultimate permanency objective, then only the questions for that plan need to be addressed at the PHTPR. If there is not agreement, each plan that is supported by a party should be addressed.

6) Discussion of next steps:

- a. Discussion of any activities/plans that will occur prior to the termination of parental rights hearing. Designate person who is responsible for each part and a timeline.
- b. Discussion of any activities or plans that will occur should voluntary relinquishment be decided. What would be the timeline and who would take those next steps?
- c. Discussion of any activities or plan that will occur should reunification or other permanency plan be considered. What would be the timeline and who would take those next steps?
- d. Determination of what non-privileged information should be provided to the court and by whom.

Appendix A

Questions for PHTPR

IF TERMINATION OF PARENTAL RIGHTS (TPR) AND ADOPTION ARE RECOMMENDED:

- What are the facts and circumstances supporting the grounds for termination?
- What reasonable efforts were made to reunify?
- Why is this plan in the best interest of the child(ren)?
- Has the petition been filed and if not, what is the date it will be filed?
- Has voluntary relinquishment of parental rights been explored? What does the parent understand about their legal rights? What would be consequences for this child if voluntary relinquishment went forward? For any other non-involved children?
- Are there relatives who will adopt the child if TPR is granted? If so, is the child living with the relative? If not, why not? Who are the relatives that might be possible adoptive parents? If there are no relatives willing and able to adopt, why not?
- If relative adoption is not the plan, is adoption by the foster parents the plan? If not, why not?
- If an adoptive home must be recruited, what efforts are being made to identify potential adoptive homes both locally and in other jurisdictions? Are there adults with whom the child has a positive relationship and are they potentially adopting families?
- Will adoption with contact be recommended and why or why not? What might the level of contact be?
- What counseling will occur to assist the child to deal with this change of plan?
- If the child is an Indian child, have ICWA requirements been met?

IF PERMANENT GUARDIANSHIP OR PERMANENT CUSTODY IS RECOMMENDED:

- Why is this option preferable to TPR and adoption? Why is it in the best interest of the child(ren)?
- What reasonable efforts were made to reunify?
- What are the facts and circumstances demonstrating the appropriateness of the individual or couple to serve as permanent family to the child(ren)? Is there another person who spends significant time in the home, and if so, has that individual been interviewed for appropriateness?
- Has there been full disclosure to the family of the child(ren)'s circumstances and special needs?
- What is the plan to ensure that this will be a permanent home for the child(ren)?
- What contact will occur between the child(ren) and parents, siblings, and other family members?
- What financial support will be provided by the biological parents?
- What are the plans to continue any necessary services to the child(ren)? How will these services be funded after the guardianship or custody has been granted?
- If the child(ren) are not already placed in the home, why not and:
 - How often is parent-child contact occurring and what is the impact on the child(ren)?
- What is the date and detailed plan for the child(ren)'s placement in this home and follow-up supervision after placement?

- If a change in school will occur, what will be done to prepare the transition?
- Will the state continued to offer any financial assistance to the guardians once finalized?

IF ANOTHER PLAN (INCLUDING REUNIFICATION) IS BEING RECOMMENDED:

- What are the compelling reasons not to proceed with reunification, TPR, adoption, permanent guardianship or permanent custody? What is the plan, and why is this plan in the child(ren)'s best interest?
- What reasonable efforts were made to reunify the child(ren) with the parent(s)?
- How will this plan provide stability and permanency for the child(ren)?
- What contact will occur between child(ren) and parents, siblings and other family members?
- What are the plans to continue any necessary services to the child(ren)?
- If the child is a teenager, what is the plan to prepare the child for independent living?
- If the child(ren) are not already placed in a home, why not and:
 - How often is parent-child contact occurring and what is the impact on the child(ren)?
- What is the date and detailed plan for the child(ren)'s placement in this home and follow-up supervision after placement?
- If a change in school will occur, what will be done to prepare the transition?



PRE-HEARING TERMINATION OF PARENTAL RIGHTS CONFERENCE PROTOCOL (PHTPR) DHHS-AOC/ODR

Definition

The Pre-Hearing Termination of Parental Rights Conference (PHTPR) is a structured facilitated discussion among all parties that focuses on critical questions that need to be answered at an upcoming termination of parental rights hearing.

Purpose

The purpose of the PHTPR is to bring the parties together to gather information and determine whether the case is ready for trial regarding terminating parental rights and to provide the parties an opportunity to explore non-trial alternatives, all with the primary focus on the need for permanency for the child that are in the child’s best interests. The PHTPR may result in an agreement among the parties regarding the permanency plan that can be presented to the Court but that is not the main purpose. Even if there is agreement, the PHTPR participants should address all the questions that correspond with the questions of termination of parental rights and the child’s permanency plan (detailed below). This information may be provided to the Court.

When

Optimally, the PHTPR should be held at least 6-8 weeks prior to the termination of parental rights hearing so that there is sufficient time for the parties to gather or provide any missing information that is needed to respond to the following questions.

Who attends

The PHTPR may be attended by two or more of the following parties: the parents; parents’ attorneys; older children and youth; caseworker; guardians ad litem; relatives; foster parents; the county attorney.

Confidentiality and privilege

The PHTPR is governed by Neb. Rev. Stat. section 43-247.01 in regard to confidentiality and privilege. This provision states in part: “All discussions taking place during such facilitated conferences, including plea negotiations, shall be considered confidential and privileged communications, except communications required by mandatory reporting under section 28-711 for new allegations of child abuse or neglect which were not previously known or reported.”

Facilitator

The facilitator(s) for the PHTPR shall be trained, proficient child welfare facilitators affiliated with an ODR-approved mediation center. The facilitator will have a minimum of 30 hours of basic mediation training; have 8 or more hours of child welfare facilitation training; and 8 hours of continuing education per year on topics related to child abuse and neglect, juvenile justice, termination of parental rights, permanency planning, crisis management, cultural competency, role of the team, engaging families, or plan development.

Pre-conference preparations

The judge should order the PHTPR as soon as practicable in reference to the actual or anticipated filing of a Petition for Termination of Parental Rights. All parties are expected to come to the PHTPR with information that responds to the questions that will be covered in the PHTPR and that are listed in the attachment. Attorneys should prepare their clients for the PHTPR. The PHTPR facilitator should review the court file prior to the conference. The ODR-approved mediation center will assist with case management and preparation for the PHTPR, including determining which parties should attend, when and where scheduled, and preparing the parties for the conference. The affiliated PHTPR facilitator should review the court file prior to the conference.

Conference

- 1) **Introduction:** The facilitator explains the process and each attendee introduces him/herself and his/her role in the legal case or in the child's life. If there is not a designated "scribe" the facilitator should ask one of the professionals to take notes. The facilitator provides information about confidentiality and privilege for communications during the conference.
- 2) **Updates on the child(ren):** The following should be covered for each child in the family
 - a. A description of each child's current placement and behavior.
 - b. If a sibling group, information on the status of the relationship and contact between siblings, including half siblings.
- 3) **Updates on the parents**
 - a. A description of the services provided to each parent, the status of the progress or the lack thereof the parent has made in regard to permanency.
 - b. A description of the contact that the parents have had with each child in the family.
- 4) **Discussion of recommendation of termination of parental rights:**

The caseworker should present DHHS's recommendation for termination of parental rights and subsequent permanency plan and why. Other parties should briefly discuss their agreement or disagreement with the DHHS's plan.
- 5) **Addressing permanency plan questions:** If there is consensus at the PHTPR regarding the termination of parental rights, then only the questions for

that plan need to be addressed at the PHTPR. If there is not agreement, each plan that will be recommended by a party to the court should be addressed.

6) Discussion of next steps:

- a. Discussion of any activities/plans that will occur prior to the termination of parental rights hearing. Designate person who is responsible for each part and a timeline.
- b. Discussion of any activities or plans that will occur should voluntary relinquishment be decided. What would be the timeline and who would take those next steps?
- c. Discussion of any activities or plan that will occur should reunification or other permanency plan be considered. What would be the timeline and who would take those next steps?
- d. Determination of what non-privileged information should be provided to the court and by whom.

Attachment 1

Questions for PHTPR

IF TERMINATION OF PARENTAL RIGHTS AND ADOPTION ARE RECOMMENDED:

- What are the facts and circumstances supporting the grounds for termination?
- What reasonable efforts were made to reunify?
- Why is this plan in the best interest of the child(ren)?
- Has the petition been filed and if not, what is the date it will be filed?
- Has voluntary relinquishment of parental rights been explored? What does the parent understand about their legal rights? What would be consequences for this child if voluntary relinquishment went forward? For any other non-involved children?
- Are there relatives who will adopt the child if TPR is granted? If so, is the child living with the relative? If not, why not? Who are the relatives that might be possible adoptive parents? If there are no relatives willing and able to adopt, why not?
- If relative adoption is not the plan, is adoption by the foster parents the plan? If not, why not?
- If an adoptive home must be recruited, what efforts are being made to identify potential adoptive homes both locally and in other jurisdictions? Are there adults with whom the child has a positive relationship and are they potentially adopting families?
- Will adoption with contact be recommended and why or why not? What might the level of contact be?
- What counseling will occur to assist the child to deal with this change of plan?
- If the child is an Indian child, have ICWA requirements been met?

IF PERMANENT GUARDIANSHIP OR PERMANENT CUSTODY IS RECOMMENDED:

- Why is this option preferable to TPR and adoption? Why is it in the best interest of the child(ren)?
- What reasonable efforts were made to reunify?
- What are the facts and circumstances demonstrating the appropriateness of the individual or couple to serve as permanent family to the child(ren)? Is there another person who spends significant time in the home, and if so, has that individual been interviewed for appropriateness?
- Has there been full disclosure to the family of the child(ren)'s circumstances and special needs?
- What is the plan to ensure that this will be a permanent home for the child(ren)?
- What contact will occur between the child(ren) and parents, siblings, and other family members?
- What financial support will be provided by the biological parents?
- What are the plans to continue any necessary services to the child(ren)? How will these services be funded after the guardianship or custody has been granted?
- If the child(ren) are not already placed in the home, why not and:
 - How often is parent-child contact occurring and what is the impact on the child(ren)?

- What is the date and detailed plan for the child(ren)'s placement in this home and follow-up supervision after placement?
- If a change in school will occur, what will be done to prepare the transition?
- Will the state continued to offer any financial assistance to the guardians once finalized?

IF ANOTHER PLAN IS BEING RECOMMENDED:

- What are the compelling reasons not to proceed with reunification, TPR, adoption, permanent guardianship or permanent custody? What is the plan, and why is this plan in the child(ren)'s best interest?
- What reasonable efforts were made to reunify the child(ren) with the parent(s)?
- How will this plan provide stability and permanency for the child(ren)?
- What contact will occur between child(ren) and parents, siblings and other family members?
- What are the plans to continue any necessary services to the child(ren)?
- If the child is a teenager, what is the plan to prepare the child for independent living?
- If the child(ren) are not already placed in a home, why not and:
 - How often is parent-child contact occurring and what is the impact on the child(ren)?
 - What is the date and detailed plan for the child(ren)'s placement in this home and follow-up supervision after placement?
 - If a change in school will occur, what will be done to prepare the transition?