**Retention of Unexpended Funds Policy**

**Contract Procurement and Administration Workgroup**

**Governor’s Cabinet on Nonprofit Health and Human Services**

**For Review at the 9-27-13 Cabinet Meeting**

The Contract Procurement Workgroup respectfully submits this proposal for the retention of unexpended funds. The overarching goal of this workgroup was to develop recommendations that would help to ensure efficiency and cost effectiveness in the state’s procurement process while supporting the nonprofit provider infrastructure. The ability to utilize unexpended funds is vital to maximizing efficiency and supporting the fiscal stability of the community-based provider system.

The 2012 Report from Governor’s Cabinet on Nonprofit Health and Human Services included the adoption of key Partnership Principles intended to promote a fair, effective, responsive, transparent and accountable partnership between nonprofit providers and their state government funders.

Principles include:

* Reporting and monitoring systems that emphasize the efficacy of services
* Use of best practices to demonstrate the value of services
* Prudent use of public funds
* Open and mutually accountable communication for government and nonprofit providers to fulfill their shared commitment to the public good

This policy, promoting accountability and budgetary flexibility, is consistent with these key partnership principles by allowing greater budgetary flexibility and the retention of unexpended funds. This policy builds upon the partnership between state agencies and their providers and recognizes the need to assure fiscal stability and a stronger provider infrastructure.

1. That State agencies and providers will continue to collaboratively develop outcome, performance and performance monitoring systems that will enable a greater level of budgetary flexibility including retaining a portion of unexpended funds.
2. In the interim:
3. State agencies may work with providers to allow State funds to be spent first, provided there are no federal or other matching requirements.
4. Providers will continue to submit fiscal and programmatic reports in accordance with current contractual requirements. Providers and state agencies will continue to discuss these reports and other matters and adjustments will be made as needed.
5. Providers will submit the 8 month report as currently, in regard to which:
6. State agencies, in consultation with the provider, may direct spending changes based on fiscal and other reports.
7. State agencies and providers may continue to seek, through the budget revision process, to repurpose projected unexpended funds for one time purposes important to the program and provider.
8. Year-end reconciliation
9. Cost reconciliation will continue to occur at the same level that cost reconciliation currently occurs (i.e. program, SID, etc) for each contract.
10. If there are unexpended funds and if State agency determines that the provider has complied with contractual and other service delivery requirements, then:
* The provider may retain 50% of the unexpended funds
* The retention amount shall be capped at 10% of the funds received by the provider (at the program, SID or other level to be reconciled).
* Note: Unexpended amounts resulting from a failure to make certain expenditures or fill positions as directed by a State agency may not be included in the calculation of the provider retention amount.
1. Federal funds will follow federal rules
2. Unexpended funds retention would not apply in the first year of a new program.

3. In cases of budget deficits, unexpended funds retention may be suspended for a particular fiscal year by the Secretary of OPM or as part of an agency deficit mitigation plan

NOTE: Policy may require statutory, regulatory and/or policy changes.