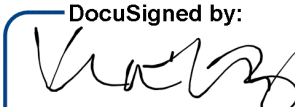




CONTRACT AMENDMENT NO. 16 SIGNATURE AND COVER PAGE

State Agency Department of Health Care Policy and Financing	Original Contract Number 201500002126
Contractor International Business Machines Corporation	Amendment Contract Number 201500002126A16
Current Contract Maximum Amount Initial Term State Fiscal Year 2014-15 \$2,162,500.00 Extension Terms State Fiscal Year 2015-16 \$9,860,250.20 State Fiscal Year 2016-17 \$4,768,951.23 State Fiscal Year 2017-18 \$20,856,823.67 State Fiscal Year 2018-19 \$13,591,483.89 State Fiscal Year 2019-20 \$11,791,920.57 State Fiscal Year 2020-21 \$11,002,957.11 State Fiscal Year 2021-22 \$11,611,104.53 State Fiscal Year 2022-23 \$15,048,472.87 State Fiscal Year 2023-24 \$13,378,019.05 State Fiscal Year 2024-25 \$12,893,237.12 Total for All State Fiscal Years \$126,965,720.24	Contract Performance Beginning Date May 1, 2015 Current Contract Expiration Date June 30, 2025

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

<p style="text-align: center;">CONTRACTOR International Business Machines Corporation</p> <p>DocuSigned by:</p>  <p>By: <u>D27EA92E08AD486...</u></p> <p>Date: <u>12/8/2023 08:38 PST</u></p>	<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor Department of Health Care Policy and Financing Kim Bimestefer, Executive Director</p> <p>DocuSigned by:</p>  <p>By: <u>0B6A84797EA8493...</u></p> <p>Date: <u>12/18/2023 09:03 PST</u></p>
<p style="text-align: center;">In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>DocuSigned by:</p>  <p>By: <u>76F69541272B43A...</u></p> <p>Amendment Effective Date: <u>12/18/2023 09:10 PST</u></p>	

Contract Routing Number 201500002126A16

CONTRACT AMENDMENT NO. 16

Original Contract Number 201500002126

1. PARTIES

This Amendment to the above-referenced Original Contract (hereinafter called the “Contract”) is entered into by and between International Business Machines Corp., 1 North Castle Drive, Armonk, New York, 10504, (hereinafter called “Contractor”), and the STATE OF COLORADO, acting by and through the Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203 (hereinafter called “Department” or “State”).

2. EFFECTIVE DATE AND ENFORCEABILITY

This Amendment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the “Effective Date”). The Department shall not be liable to pay or reimburse Contractor for any performance hereunder, including, but not limited to, costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3. FACTUAL RECITALS

The Parties entered into the Contract to develop and install the Business Intelligence and Data Management System (BIDM).

4. CONSIDERATION

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Amendment.

5. LIMITS OF EFFECT

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments thereto, if any, remain in full force and effect except as specifically modified herein.

6. MODIFICATIONS

The Contract and all prior amendments thereto, if any, are modified as follows:

- This Amendment extends the term of the contract for an additional year, beginning July 1, 2024 and ending on June 30, 2025 at the amounts stated in this Amendment.
- This Amendment establishes a limitation of liability cap for Contractor’s liability to the State during the extension period, beginning July 1, 2024 and ending on June 30, 2025.
- Amending Exhibit E, COMPENSATION AND QUALITY MAINTENANCE PAYMENTS, Section 2, Subsection 2.1.1.2.4.1.7 to add Year 9 quarterly QMP Payments and monthly QMP payments for T-MSIS weekly functionality implemented via Amendment 13.

- A. Section 7, PAYMENTS TO CONTRACTOR, subsection A., Maximum Amount, is hereby deleted in its entirety and replaced with the following:**

Maximum Amount

The maximum amount payable under this Contract to Contractor by the State is shown in the following table, as determined by the State from available funds. Payments to Contractor are limited to the unpaid obligated balance of the Contract at the rates set forth in Exhibit E, Compensation and Quality Maintenance Payments. The maximum amount payable by the State to Contractor is:

State Fiscal Year 2014-15	\$2,162,500.00
State Fiscal Year 2015-16	\$9,860,250.20
State Fiscal Year 2016-17	\$4,768,951.23
State Fiscal Year 2017-18	\$20,856,823.67
State Fiscal Year 2018-19	\$13,591,483.89
State Fiscal Year 2019-20	\$11,791,920.57
State Fiscal Year 2020-21	\$11,002,957.11
State Fiscal Year 2021-22	\$11,611,104.53
State Fiscal Year 2022-23	\$15,048,472.87
State Fiscal Year 2023-24	\$13,378,019.05
State Fiscal Year 2024-25	\$12,893,237.12
Total for All State Fiscal Years	\$126,965,720.24
<p style="text-align: center;"><i>Funding Changes in Contract Amendment 16</i></p> <ul style="list-style-type: none"> • Adding funds in the amount of \$12,738,092.00 to State Fiscal Year 2024-25 for maintenance and operations activities and ongoing operational support related to the transitioning of the BIDM system to a new system vendor. • Adding funds in the amount of \$155,145.12 to State Fiscal Year 2024-25 for T-MSIS Weekly Operations & Maintenance payments. 	

The State Fiscal Year amounts in the table in this section are based on State appropriations. Based on the timing of the invoicing and payment, the Contractor may receive amounts paid in a different State Fiscal Year than when the amounts were actually earned by the Contractor.

Any changes to the maximum amount payable under the Contract or Quality Maintenance Payments Specified in Exhibit E, shall require a formal written amendment, in accordance with State Fiscal Rules and State Controller Policies and Guidelines.

B. Section 19.P., Limitation of Liability for BIDM Contract, is hereby amended by the addition of a new Subsection iii. as follows:

- iii. During the term of Amendment 16 for Work performed, beginning on the Amendment Effective Date, thirty-six million dollars (\$36,000,000.00).

C. New Section 19.R is hereby added to the Contract as follows:

R. Limitation on Withholding Payment and Set Off Rights

Notwithstanding any provision of this Contract to the contrary, the State's right to withhold any payments due to Contractor, or set off any amounts owed to Contractor, whether under the terms of this Contract or as an equitable remedy, shall not be allowed to the extent such rights are associated with any realized, threatened, or expected damages, losses, or claims arising from or

related to the Progress Software data exposure associated with Progress Software's MOVEit product, as first notified by Progress Software in a May 31, 2023 security bulletin.

D. Exhibit E, COMPENSATION AND QUALITY MAINTENANCE PAYMENT, Sections 1.1.1.3.5. through 1.1.1.3.7. are hereby added as follows:

1.1.1.3.5. Reference Amendment 16-2023: Health Insights

1.1.1.3.5.1. The Contractor shall no longer purchase and maintain software licenses for Health Insights (previously named Truven Health Advantage Suite) and therefore line items 17a, 17b, 17c, 17d, 17e, and 18 of the License Table in Section 1.1.1.3.1. are hereby deleted. In turn, Health Insights will no longer be in scope. Based on the foregoing, Patient Health Record (PHR) functionality in Health First Colorado Data Analytics Portal (CDAP) (previously named Physician Performance Assessment) will end upon commencement of data migration efforts into the IBM Cloud. To appraise system users of the changes to the PHR functionality in CDAP and Health Insights, the Contractor shall disseminate communication to internal and external users and post a notice to the CDAP PHR dashboard about the aforementioned changes.

1.1.3.5.2. Contractor shall present a walkthrough of the Health Insights Off-boarding process for review and approval by the Department.

1.1.3.5.2.1. DELIVERABLE: Health Insights Off-boarding Walkthrough

1.1.3.5.2.1 DUE DATE: On or before July 1, 2024

1.1.1.3.6 Reference Amendment 16-2023: Hyland OnBase

1.1.1.3.6.1. Contractor shall create and submit for Department approval an Off-boarding Plan for Hyland OnBase that outlines the steps needed to de-provision existing OnBase users and to turn over the Department's existing OnBase content.

1.1.1.3.6.2. Upon completion of the steps in the OnBase Offboarding Plan or July 1, 2024, whichever is later, the Contractor shall no longer purchase and maintain software licenses for the OnBase content management services solution by Hyland.

1.1.1.3.6.2.1 DELIVERABLE: Hyland OnBase Off-boarding Plan

1.1.1.3.6.2.2. DUE DATE: On or before July 1, 2024

1.1.1.3.7. Reference Amendment 16-2023: The Contract shall maintain up to date all other software licenses identified in the License Table in Section 1.1.1.3.1., Exhibit E, through the end of the State Fiscal Year 2024-25, or until required functionalities for Cutover are achieved by the incoming vendor, whichever is sooner.

E. EXHIBIT C: REQUIREMENTS IS HEREBY AMENDED AS FOLLOWS: SECTION 6.6.5 TO EXHIBIT C, REQUIREMENTS, is hereby added as follows:

6.6.5 Reference Amendment 16-2023: Over the course of the extension period, the Contractor shall ensure that the following Key Personnel are available to the Department:

6.6.5.1 CMS-64 Lead

6.6.5.1.1 The CMS-64 Lead shall ensure the continued operations of CMS-64 reporting, support the Department with research and questions, data issue resolution, and overall quality of CMS-64 submissions to CMS. The CMS-64 Lead shall facilitate knowledge transfer sessions with the incoming vendor and be available to the incoming vendor to research and resolve any issues resulting from turnover. The CMS-64 Lead shall have a minimum of six months prior experience working with the Department on generation of the Department's CMS-64 submission.

6.6.5.2. Data Warehouse Manager

6.6.5.3 PMO Manager

6.6.5.4 Account Manager

6.6.5.5 Operations Manager

6.6.5.6 System Manager

6.6.5.7 Compliance & Security

6.6.5.8 Data Integration Lead

6.6.5.8.1 The Data Integration Lead shall ensure the continued operations of all BIDM inbound and outbound data exchanges, internal and external ETL processes, etc. The Data Integration Lead shall facilitate knowledge transfer sessions with the incoming vendor and be available to the incoming vendor to research and resolve any issues resulting from turnover. The Data Integration Lead shall have a minimum of six months of prior experience with the operations of BIDM data integration processes.

6.6.5.9 T-MSIS Lead

6.6.5.9.1 The T-MSIS Lead shall ensure the continued operations of T-MSIS submissions and CMS Data Quality issue resolution per Department direction. The T-MSIS Lead shall facilitate knowledge transfer sessions with the incoming vendor and be available to the incoming vendor to research and resolve any issues resulting from turnover. The T-MSIS Lead shall have a minimum of one (1) year prior experience working with the Department on generation of the Department's T-MSIS submission, or comparable experience with another State's TMSIS submissions.

6.6.5.10 New Key personnel listed above retain flexibility to support Change Request (CR) work, as necessary and as it relates to subject areas above.

F. REFERENCE AMENDMENT 16-2023: STATEMENT OF WORK, Section 4.1.1 of CONTRACT PERSONNEL is hereby deleted.

G. Exhibit E, COMPENSATION AND QUALITY MAINTENANCE PAYMENT, Section 1.1.1.1 is modified as follows:

The following language is added to §1.1.1.1:

1.1.1.1 Reference 16-2023: Monthly Contract Stage Payment Table: Commencing in the first month of the extension period covered by this Amendment, payments for BIDM Ongoing

Operations and Enhancements Contract Stage—Year 8 (July 1, 2023 – June 30, 2024) shall cease and revert to the following schedule:

The following rows are added to the table in §1.1.1.1:

Contract Stage	Monthly Contract Stage Payment Amount	Maximum Number of Monthly Payments	One-Time Payment Total Amount¹	Stage Maximum Payment Amount²
Extension Period—Year 9 (July 1, 2024 thru June 30, 2025)				
BIDM Ongoing Operations & Enhancements during Contract Turnover Phase—Year 9 (July 1, 2024 thru June 30, 2025) ⁶	\$1,010,528.00	12	N/A	\$12,126,336.00
QMP Payments (Quarterly)	\$152,939.00	4	N/A	\$611,756.00
T-MSIS O&M Payments (Monthly)	\$6,464.38	12	N/A	\$77,572.56
T-MSIS QMP Payments- (Monthly)	\$6,464.38	12	N/A	\$77,572.56
¹ One-Time Payments to be invoiced as provided in Exhibit E, Section 1.1.2.1.1. ² Does not include Quality Maintenance Payment nor Additional Tableau Maintenance Payments (as set forth in Section 1.1.6.1), but does include One-Time Payments. ³ Monthly payments begin January 1, 2018. ⁴ One-time Payment for BIDM Ongoing Operations and Enhancement Contract Stage Year 2 for the period of July 1, 2017 to December 31, 2017 (refer to table in Exhibit E, Section 1.1.2.1.1.) ⁵ Monthly ongoing payments beginning July 1, 2022 and going through June 30, 2024 will include all services required for Ongoing Operations with Non-Key Personnel hours totaling 23,000 for system enhancements. These amounts include a 2.0% COLA increase and the expiration of the COVID reductions. ⁶ During the extension period July 1, 2024 through June 30, 2025, it is the Department's expectation that System enhancements will not take up more than 44% of existing Non-Key Personnel hours during this time period and the remaining hours (56%) may be utilized for other Maintenance or Turnover-related activities.				

H. REFERENCE AMENDMENT 16-2023: EXHIBIT E, COMPENSATION AND QUALITY MAINTENANCE PAYMENT, Section 2.1.2.4.1.7 is hereby modified as follows:

2.1.2.4.1.7 Reference 16-2023: Quarterly Contract Stage Payment Table: effective July 1, 2024, BIDM Quality Maintenance Payments (QMP) Contract shall cease and revert to the following schedule:

Performance Standard	Number of Quarterly	QMP for BIDM Ongoing Operations & Enhancements
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	Payments	during Contract Turnover Stage–Year 9 (July 1, 2024 – June 30, 2025)
<p>Help Desk Performance Standard: Help Desk Performance Standard applies only to user help requests that are submitted to Contractor’s corporate Customer Support Center via toll-free telephone call, email or website login.</p> <p><i>Component 1:</i> Call wait times in the call center were less than or equal to one (1) minute per every fifteen (15) calls received per hour at all times during the month. Component 2: No more than five percent (5%), per every fifteen (15) calls received per hour, were abandoned during the month.</p> <p><i>Component 2:</i> No more than five percent (5%), per every fifteen (15) calls received per hour, were abandoned during the month.</p>	4	\$7,647.00
<p>Help Ticket Performance Standard Component 1: All Priority Level 1 tickets were responded to within thirty (30) minutes and were either resolved or escalated to project development and management within four (4) business hours. Priority Level 1 tickets are defined as those where the user is experiencing a condition that disables use of or access to the BIDM, no workaround is available, and an immediate solution is required.</p> <p><i>Component 2:</i> All Priority Level 2 tickets were responded to within sixty (60) minutes and were either resolved or escalated to project development and management within eight (8) business hours. Priority Level 2 tickets are defined as those where the user is experiencing a condition that frequently disrupts or limits use of the BIDM, no reasonable workaround is available, and an immediate solution is required.</p> <p><i>Component 3:</i> All Priority Level 3 tickets were responded to within one (1) Business Day and were either resolved or escalated to project development and management within three (3) Business Days. Priority Level 3 tickets are defined as those where overall production is operational with no major impact on the Department’s business operation, functionality</p>	4	\$11,470.00

<p>differs from the intended design, or help is needed to answer non-critical issues, and a reasonable workaround is available, or an immediate solution is not required.</p> <p><i>Component 4:</i> All Priority Level 4 tickets were responded to within two (2) Business Days and were either resolved or escalated to project development and management within five (5) Business Days. Priority Level 4 tickets are defined as requests for information or new BIDM features, or issues that do not regularly occur.</p>		
<p>System Performance Standard:</p> <p><i>Component 1:</i> The production BIDM system infrastructure, including servers, network, and storage appliances, maintained an availability of 97% during business hours AND the downtime of a system or service due to unplanned events did not exceed 16 business hours per calendar quarter.</p> <p><i>Component 2:</i> The production BIDM System Tools maintained an availability of 97% during business hours AND the downtime of a system tool or the BIDM Web Portal due to unplanned events did not exceed 16 business hours per calendar quarter.</p> <p><i>Component 3:</i> The production BIDM Cognos tools supported the execution of at least 50 concurrent reports. This shall be captured daily and measured monthly as defined in the System Operations and Maintenance Plan.</p> <p><i>Component 4:</i> The BIDM Web Portal was available to all authorized BIDM users 24 hours per day, 7 days per week, except for regularly scheduled downtime. Component 5: The production BIDM Cognos reports maintained expected runtime and expected response time for 95% of executions. Successful execution and response times shall be captured daily and measured monthly as defined in the System Operations and Maintenance Plan. The list of BIDM Cognos reports to be measured are to be defined in the System Operations and Maintenance Plan and reviewed monthly.</p>	4	\$15,294.00
<p>Data Retention Standard:</p> <p>Contractor shall maintain and enforce a data</p>	4	\$15,294.00

retention policy that is reflective of the latest data retention requirements as established in the approved System Operations and Maintenance Plan. Adherence to the data retention requirements shall be captured daily and measured monthly.		
<p>Refresh Rate Standard:</p> <p><i>Component 1:</i> The BIDM System refreshed production environment Data Warehouse data tables within one (1) business day of data receipt with usable/valid data from the Fiscal Agent or other data supplier. The Contractor audited key elements such as record counts and financial totals for each data load. The key elements to be audited are to be defined in the System Operations and Maintenance Plan.</p>	4	\$19,117.00
<p>Business Continuity / Disaster Recovery Performance Standard:</p> <p><i>Component 1:</i> A current and approved Business Continuity / Disaster Recovery Plan was in place at all times during the quarterly period.</p> <p><i>Component 2:</i> The Contractor provided recommended updates during the quarterly period – OR– the Contractor reported that no updates were necessary during the period.</p> <p><i>Component 3:</i> Because the BIDM is not a mission critical service as defined by the Department and OIT, all core services were recovered within five (5) days and data was restored within twenty four (24) hours of the last known good production state after the declaration of a production disaster during the quarterly period – OR– there was no declaration of a production disaster during the quarterly period.</p>	4	\$7,647.00
<p>Training Performance Standard</p> <p><i>Component 1:</i> All Training programs delivered by Contractor for Department BIDM users Level II (Business Users) or III (Advanced Users): Contractor’s training program received an average score of at least 3.5 on a scale of 1-5 where “5” is “Excellent”, “4” is “Good, and “3” is Satisfactory”, on an opinion survey of all trainees following their training class, based on the scores of the trainees that completed the</p>	4	\$15,294.00

<p>class, and averaged across all classes and survey responses.</p> <p><i>Component 2:</i> All Training programs delivered by Contractor for Department BIDM users Level I (Least skilled): Contractor's training program received an average score of at least 3.5 on a scale of 1 -5 where "5" is "Excellent", "4" is "Good, and "3" is Satisfactory", on an opinion survey of all trainees following their training class, based on the scores of the trainees that completed the class, and averaged across all classes and survey responses.</p> <p><i>Component 3:</i> All Training programs delivered by Contractor for BIDM Web Portal Users (i.e., Providers, RAEs, and other authorized users not employed by the Department): Contractor's training program received an average score of at least 3.5 on a scale of 1 -5 where "5" is "Excellent", "4" is "Good, and "3" is Satisfactory", on an opinion survey of all trainees following their training class, based on the scores of the trainees that completed the class, and averaged across all classes and survey responses.</p>		
<p>Staff Retention Performance Standard:</p> <p><i>Component 1:</i> All Key Personnel vacancies were filled within sixty (60) calendar days during the year –OR– no Key Personnel vacancies occurred during the year.</p> <p><i>Component 2:</i> All Key Personnel had a performance evaluation performed by the Contractor that incorporated input provided by the Department during the year and all evaluations were documented and made available to the Department.</p> <p><i>Component 3:</i> All Key Personnel were dedicated to this Contract full time, unless otherwise noted in Exhibit C, Requirements, as documented by the Contractor's time keeping system.</p>	4	\$15,294.00
<p>MITA Performance Standard:</p> <p><i>Component 1:</i> All BIDM hardware and software licenses were renewed on time and did not expire. The production BIDM hardware and software licenses are to be managed by the Operations and System Management team.</p>	4	\$22,941.00

<p>Component 2: Unplanned events that affected the production BIDM environment and were due to upgrades and patch deployments were limited to no more than 3 incidents per quarter. Upgrades and patching of the BIDM infrastructure, systems, and applications were deployed and tested in the available development and test environments before they were promoted to production.</p> <p><i>Component 3:</i> The Contractor delivered required standard reports on time by the due date agreed upon in the approved Communication Management Plan. Component 4: The Contractor delivered required outbound extracts on time by the due date agreed upon in the approved System Operations and Maintenance Plan.</p>		
<p>Defect Resolution Performance Standard: Defect Resolution Performance Standard applies to defects that are discovered during any type of testing or while functionality is in production.</p> <p><i>Component 1:</i> All Critical defects were resolved within 3 business days of being opened.</p> <p><i>Component 2:</i> All High defects were resolved within 30 calendar days of being opened.</p> <p><i>Component 3:</i> All Medium defects were resolved within 60 calendar days of being opened. Component 4: All Low or Cosmetic defects were resolved within 90 calendar days of being opened.</p>	4	\$22,941.00
Total amount of each quarterly QMP payment:		\$152,939.00
Performance Standard	Number of Monthly Payments	QMP for T-MSIS Enhancements Standards during Contract Turnover Stage–Year 9 (July 1, 2024 – June 30, 2025)
<p>T-MSIS Enhancement Standard.</p> <p><i>Component 1:</i> The weekly file was delivered to the Core MMIS Contractor in the agreed to file format within one business day of data availability within the BIDM Reporting Layer. For required data</p>	12	\$6,464.38

received on a weekend or holiday, the file format and delivery was completed the following business day as written in MITA Performance Standard, Component 4.		
Total amount of all QMP payments in SFY2024-25:		\$689,328.56

7. START DATE

This Amendment shall take effect on its Effective Date.

8. ORDER OF PRECEDENCE

Except for the Special Provisions and the HIPAA Business Associates Addendum, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the Contract or any amendment shall always control other provisions in the Contract or any amendments.

9. AVAILABLE FUNDS

Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available to the Department by the federal government, state government and/or grantor.

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