



MONTANA STATE FUND REQUEST FOR PROPOSAL (RFP)

RFP Number: MSF 61	RFP Title: DURABLE MEDICAL EQUIPMENT	
RFP Response Due Date and Time: Open	Number of Pages: 24	Issue Date: 6/19/14

ISSUING AGENCY INFORMATION	
Procurement Officer: Bridget McGregor	Montana State Fund Phone: (406) 495-5277 Fax: (406) 495-5023 TTY Users, Dial 711
Website: http://vendor.mt.gov/	

INSTRUCTIONS TO OFFERORS	
Return Sealed Proposal to:	Mark Face of Envelope/Package with:
MAILING ADDRESS: Montana State Fund PO Box 4759 Helena, MT 59604-4759	RFP Number: MSF 61 RFP Response Due Date: Open
Special Instructions:	

OFFERORS MUST COMPLETE THE FOLLOWING	
Offeror Name/Address:	<hr/> (Name/Title) <hr/> (Signature)
	<small>Print name and title and sign in ink. By submitting a response to this RFP, offeror acknowledges it understands and will comply with the RFP specifications and requirements.</small>
Type of Entity (e.g., corporation, LLC, etc.)	Offeror Phone Number:
Offeror E-mail Address:	Offeror FAX Number:

OFFERORS MUST RETURN THIS COVER SHEET WITH RFP RESPONSE

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SCHEDULE OF EVENTS

EVENT

DATE

RFP Issue Date.....June 19, 2014

RFP Response Due Date Open

Service Start Date July 1, 2014

SECTION 1: INTRODUCTION AND INSTRUCTIONS

1.1 INTRODUCTION

The Montana State Fund, hereinafter referred to as "MSF", is pleased to invite you to submit a response for services to injured employees suffering from injuries or occupational diseases under the Workers' Compensation Act of Montana through preferred provider contracts with Durable Medical Equipment suppliers. Respondents may submit a proposal for any or all of the services listed below:

- Durable Medical Equipment
- Oxygen Equipment and Supplies
- Bone Growth Stimulators
- TENS Equipment & Supplies
- Orthotics & Prosthetics Supplies & Services

These will be nonexclusive contracts. MSF may enter into contracts with more than one Contractor, and may enter into contracts with additional Contractors at any time. MSF does not guarantee any number of referrals under this agreement. Services may begin after the issue date of this RFP.

1.2 CONTRACT PERIOD

The contract term is for a period beginning on July 1, 2014 and ending on June 30, 2015. Renewals of the contract, by mutual agreement of both parties, may be made at one-year intervals, or any interval that is advantageous to MSF. The contract, including any renewals, may not exceed a total of seven years, at the option of MSF. Additional durable medical equipment providers may enter into contracts with MSF at any time, subject to review of qualifications and agreement to the required terms contained in this proposal.

1.3 SINGLE POINT OF CONTACT

From the date this Request for Proposal (RFP) is issued until an offeror is selected and announced by the procurement officer, **offerors shall not communicate with any MSF staff regarding this procurement, except at the direction of Bridget McGregor**, the procurement officer in charge of the solicitation. Any unauthorized contact may disqualify the offeror from further consideration. Contact information for the single point of contact is:

Procurement Officer: **Bridget McGregor**
Telephone Number: **(406) 495-5277**
Fax Number: **(406) 495-5023**
E-mail Address: **bmccregor@montanastatefund.com**

1.4 REQUIRED REVIEW

Offerors shall carefully review the entire RFP. Offerors shall promptly notify the procurement officer identified above via e-mail or in writing of any ambiguity, inconsistency, unduly restrictive specifications, or error which they discover. In this notice, the offeror shall include any terms or requirements within the RFP that preclude the offeror from responding or add unnecessary cost. Offerors shall provide an explanation with suggested modifications. MSF will determine any changes to the RFP.

1.5 GENERAL REQUIREMENTS

1.5.1 Acceptance of Contract. By submitting a response to this RFP, Contractor agrees to acceptance of the contract as set out in Appendix A of this RFP. Much of the language included in the contract reflects requirements of Montana law.

1.5.2 Resulting Contract. This RFP and any addenda, the offeror's RFP response, including any amendments, shall be incorporated by reference in any resulting contract. MSF's contract, attached as Appendix A, contains the contract terms and conditions which will form the contract between MSF and the Contractor. In the event of a dispute as to the duties and responsibilities of the parties under this contract, the contract, along with any attachments prepared by MSF, will govern in the same order of precedence as listed in the contract.

1.5.3 Mandatory Requirements. To be eligible for consideration, an offeror *must* meet all mandatory requirements. MSF will determine whether an offeror's proposal complies with the requirements. Proposals that fail to meet any mandatory requirements listed in this RFP will be deemed nonresponsive.

1.5.4 Understanding of Specifications and Requirements. By submitting a response to this RFP, offeror acknowledges it understands and will comply with the RFP specifications and requirements.

1.5.5 Contractor's Signature. Appendix B must be signed in ink by an individual authorized to legally bind the business submitting the response. The Contractor's signature on Appendix B in response to this RFP guarantees that the offer has been established without collusion and without effort to preclude MSF from obtaining the best possible supply or service. Proof of authority of the person signing the RFP response must be furnished upon request.

SECTION 2: RFP STANDARD INFORMATION

2.1 AUTHORITY

This RFP is issued under the authority of section 39-71-2315, MCA (Montana Code Annotated). The RFP process is a procurement option allowing the award to be based on stated criteria. The RFP states the relative importance of all criteria. Only the criteria outlined in this RFP will be used.

2.2 OFFEROR COMPETITION

MSF encourages free and open competition to obtain quality, cost-effective services and supplies. MSF designs specifications, proposal requests, and conditions to accomplish this objective.

2.3 RECEIPT OF PROPOSALS AND PUBLIC INSPECTION

2.3.1 Public Information. Subject to exceptions provided by Montana law, all information received in response to this RFP, including copyrighted material, is public information. Proposals will be made available for public viewing and copying shortly after the proposal due date and time. The exceptions to this requirement are: (1) bona fide trade secrets meeting the requirements of the Uniform Trade Secrets Act, Title 30, chapter 14, part 4, MCA, that have been properly marked, separated, and documented; (2) matters involving individual safety as determined by MSF; and (3) other constitutional protections. See 18-4-304, MCA. MSF provides a copier for interested parties' use at \$0.10 per page. The interested party is responsible for the cost of copies and to provide personnel to do the copying.

2.3.2 Procurement Officer Review of Proposals. Upon opening the proposals in response to this RFP the procurement officer reviews the proposals for information that meets the exceptions in Section 2.3.1, providing the following conditions have been met:

- Confidential information (including any provided in electronic media) is clearly marked and separated from the rest of the proposal.
- The proposal does not contain confidential material in the cost or price section.
- An affidavit from the offeror's legal counsel attesting to and explaining the validity of the trade secret claim as set out in Title 30, chapter 14, part 4, MCA, is attached to each proposal containing trade secrets. Counsel must use the State of Montana "Affidavit for Trade Secret Confidentiality" form in requesting the trade secret claim. This affidavit form is available on the OneStop Vendor Information website at: <http://svc.mt.gov/gsd/OneStop/GSDDocuments.aspx> or by calling (406) 444-2575.

Information separated out under this process will be available for review only by the procurement officer, the evaluator/evaluation committee members, and limited other designees. Offerors shall pay all of its legal costs and related fees and expenses associated with defending a claim for confidentiality should another party submit a "right to know" (open records) request.

2.4 CLASSIFICATION AND EVALUATION OF PROPOSALS

2.4.1 Initial Classification of Proposals as Responsive or Nonresponsive. MSF shall initially classify all proposals as either "responsive" or "nonresponsive" (ARM 2.5.602). MSF may deem a proposal nonresponsive if: (1) any of the required information is not provided; (2) the submitted price is found to be excessive or inadequate as measured by the RFP criteria; or (3) the proposal does not meet RFP

requirements and specifications. MSF may find any proposal to be nonresponsive at any time during the procurement process. If MSF deems a proposal nonresponsive, it will not be considered further.

2.4.2 Determination of Responsibility. The procurement officer will determine whether an offeror has met the standards of responsibility consistent with ARM 2.5.407. An offeror may be determined nonresponsive at any time during the procurement process if information surfaces that supports a nonresponsive determination. If an offeror is found nonresponsive, the procurement officer will notify the offeror by mail. The determination will be made a part of the procurement file.

2.4.3 Contract Execution. Contract award, if any, will be made to any contractor who meets the requirements of this RFP, and provides all required documents, and successfully completes contract negotiation. A formal contract utilizing the draft contract attached as Appendix A will be executed by all parties.

2.5 MSF'S RIGHTS RESERVED

While MSF has every intention to award a contract resulting from this RFP, issuance of the RFP in no way constitutes a commitment by MSF to award and execute a contract. Upon a determination such actions would be in its best interest, MSF, in its sole discretion, reserves the right to:

- Cancel or terminate this RFP ;
- Reject any or all proposals received in response to this RFP;
- Waive any undesirable, inconsequential, or inconsistent provisions of this RFP that would not have significant impact on any proposal;
- Not award a contract, if it is in MSF's best interest not to proceed with contract execution; or
- If awarded, terminate any contract if MSF determines adequate state funds are not available.

SECTION 3: SCOPE OF SERVICES

3.1 DURABLE MEDICAL EQUIPMENT

Please refer to Appendix A – Contract for scope of services.

SECTION 4: OFFEROR QUALIFICATIONS

4.1 MSF'S RIGHT TO INVESTIGATE AND REJECT

MSF may make such investigations as deemed necessary to determine the ability of the Contractor to provide the supplies and/or perform the services specified. MSF reserves the right to reject any response if the evidence submitted by, or investigation of, the Contractor fails to satisfy MSF that the Contractor is properly qualified to carry out the obligations of the contract.

4.2 CONTRACTOR INSURANCE REQUIREMENTS

The Contractor shall maintain for the duration of the contract, at its cost, primary insurance coverage against claims for injuries to persons or damages to property including contractual liability, which may arise from work performed under this contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.

At contract execution, the Contractor must provide a certificate for Commercial General Liability, and Professional Liability coverage, to include bodily injury, personal injury, and property damage with combined single limits of \$1,000,000 per claim, and \$2,000,000 aggregate per year, from an insurer with a Best's Rating of no less than A-.

The Contractor must provide a certificate for commercial general liability, to include bodily injury, personal injury, property damage and automobile liability insurance (or non-owned auto endorsement if applicable) with combined single limits of not less than \$1,000,000 per occurrence, with a \$2,000,000 aggregate from an insurer with a Best's Rating of no less than A-.

4.3 COMPLIANCE WITH WORKERS' COMPENSATION ACT

The Contractor is required to supply MSF with proof of compliance with the Montana Workers' Compensation Act while performing work for MSF. (Mont. Code Ann. §§ 39-71-120, 39-71-401, and 39-71-405.) Neither the Contractor nor its employees are employees of MSF. The proof of insurance/exemption must be in the form of workers' compensation insurance, an independent contractor exemption, or documentation of corporate officer status and must be received by MSF before contract will be executed, and must be kept current for the entire term of the contract.

SECTION 5: FEES AND PAYMENT

Please see Appendix A – Contract for Fees and Payment

APPENDIX A: CONTRACT

**CONTRACT FOR SERVICES, PREFERRED PROVIDER AGREEMENT
DURABLE MEDICAL EQUIPMENT
OXYGEN EQUIPMENT AND SUPPLIES
BONE GROWTH STIMULATORS
TENS EQUIPMENT & SUPPLIES
ORTHOTICS & PROSTHETICS**

Contract ID Number – OS-DME-

This agreement is made by and between **MONTANA STATE FUND**, hereinafter MSF, 855 Front Street, PO Box 4759, Helena, Montana 59604-4759, and «COMPANY», «Address», «City», «State» «ZIP» referred to herein as Contractor.

CONTRACTOR MUST CHECK WHICH SERVICES ARE TO BE PROVIDED UNDER THIS CONTRACT.

- Oxygen Equipment and Supplies**
- Durable Medical Equipment**
- Bone Growth Stimulators**
- TENS Equipment & Supplies**
- Orthotics & Prosthetics Supplies & Services**

This is a non-exclusive agreement. MSF may enter into contracts with more than one Contractor, and may enter into contracts with additional Contractors at any time. Under this agreement there is no guarantee of the number of referrals that will be made to the Contractor.

**SECTION 1
PURPOSE**

The purpose of this agreement is for provision of products, equipment and services through preferred provider contracts to injured employees suffering from injuries or occupational diseases under the Workers' Compensation Act of Montana, whose claims have been accepted by MSF.

**SECTION 2
CONTRACT TERM/RENEWAL**

1. The term of the contract will be from July 1, 2014 to June 30, 2015.
2. The Contractor and MSF agree that the contract may, upon mutual agreement, be extended after the initial term in annual increments up to a total of seven (7) years. Compensation sections of this contract

including, but not limited to, fee schedule, and fixed fees may need to be re-negotiated after the initial one-year term. This instrument shall not be effective until duly signed by all parties hereto.

3. In order to be eligible to renew its contract, the Contractor must be current with all information required herein in accordance with this contract.

SECTION 3

CONTRACTOR REQUIREMENTS

1. Contractor must provide a copy of their license/certification to MSF indicating the ability to conduct business. A copy of the certificate must be provided to MSF prior to contract award.
2. Contractor must retain records that fully disclose the extent and nature of services provided for each referred injured employee.
3. All services, equipment and related supplies must have a therapeutic use, ordered by a treating physician as part of prescribed treatment, and be essential for carrying out the treatment plan for primary medical services. A treating physician is defined as:

(For claims from accidents before July 1, 2011)

39-71-116 (37), MCA "Treating physician" means a person who is primarily responsible for the treatment of a worker's compensable injury and is:

- (a) a physician licensed by the state of Montana under Title 37, chapter 3, and has admitting privileges to practice in one or more hospitals, if any, in the area where the physician is located;
- (b) a chiropractor licensed by the state of Montana under Title 37, chapter 12;
- (c) a physician assistant-certified licensed by the state of Montana under Title 37, chapter 20, if there is not a physician, as defined in subsection (36)(a), in the area where the physician assistant-certified is located;
- (d) an osteopath licensed by the state of Montana under Title 37, chapter 5;
- (e) a dentist licensed by the state of Montana under Title 37, chapter 4;
- (f) for an injured worker residing out of state or upon approval of the insurer, a treating physician defined in subsections (36)(a) through (36)(e) who is licensed or certified in another state; or
- (g) an advanced practice registered nurse licensed by the state of Montana under Title 37, chapter 8.

(For claims from accidents on or after July 1, 2011)

39-71-116 (41), MCA "Treating physician" means the person who, subject to the requirements of 39-71-1101, is primarily responsible for delivery and coordination of the workers' medical services for the treatment of a worker's compensable injury or occupational disease and is:

- (a) a physician licensed by the state of Montana under Title 37, chapter 3, and has admitting privileges to practice in one or more hospitals, if any, in the area where the physician is located;
- (b) a chiropractor licensed by the state of Montana under Title 37, chapter 12;
- (c) a physician assistant licensed by the state of Montana under Title 37, chapter 20, if there is not a treating physician, as provided for in subsection (37)(a), in the area where the physician assistant is located;
- (d) an osteopath licensed by the state of Montana under Title 37, chapter 3;
- (e) a dentist licensed by the state of Montana under Title 37, chapter 4;

- (f) for a claimant residing out of state or upon approval of the insurer, a treating physician defined in subsections (41)(a) through (41)(e) who is licensed or certified in another state; or
- (g) an advanced practice registered nurse licensed by the state of Montana under Title 37, chapter 8.

4. The Contractor must be able to provide a system (eg., 'smart' card), free of charge, for monitoring utilization of equipment and injured employee compliance with recommended utilization upon request, and for all bone stimulators.
5. Contractor must accept MSF payment as payment in full for services rendered and not charge an injured employee additional fees.
6. Any information related to the injured employee will remain confidential and will not be disclosed to third parties without the written permission of MSF or the injured employee.
7. Detailed specifications of products, equipment or services provided must be presented with billing in order for payment to be made. Illegible notes will be returned unpaid for clarification.
8. Contractor will designate a representative who will be available as needed for business review and provide a phone number and e-mail address for that representative.
9. Contractor must comply with applicable provisions of the Workers' Compensation Act.

SECTION 4

GENERAL TERMS OF PAYMENT*

1. All bills must be submitted on CMS 1500 or UB04 forms with HCPCS codes to indicate procedures/supplies, and ICD-9 codes to indicate diagnosis. No payment will be made unless billing is properly coded and submitted in accordance with Medicare billing standards. MSF reserves the right to perform periodic audits on amounts charged for specific procedure codes to ascertain that charges submitted do not exceed usual and customary costs, as determined by a review of comparable suppliers.
2. All rental charges paid will be applied toward the cost of purchase, not to exceed the usual purchase cost. If item is a rental item, start and end dates of the rental period must be specified.
3. Mileage is not a reimbursable expense under this contract.
4. No payment will be made for professional travel time for any service, including delivery of equipment, equipment technician visits, or respiratory therapist visits.
5. MSF reserves the right to re-negotiate reimbursement rates based on extraordinary care circumstances. "Extraordinary Care" is defined as 1) extended physical or medical care of an injured employee that exceeds normal duties expected for the particular diagnosis or 2) extraordinary travel circumstances.
6. Reimbursement of shipping charges will be allowed only on initial purchases. Freight/shipping charges will not be reimbursed for rental items.
7. Charges for labor to repair or maintain purchased equipment must be approved by the claims examiner in writing prior to completion and are payable at rates designated in the Medicare Fee Schedule.

8. Contractor must provide a completed W-9.

* **See specific payment terms under Scope of Services.**

SECTION 5
SCOPE OF SERVICES: OXYGEN EQUIPMENT AND SUPPLIES

1. Initial referrals for oxygen equipment and related supplies will be made to Contractors serving the geographic area in which the injured employee resides. Geographic area is defined as the area in which the Contractor maintains an office at which services and maintenance/supplies can be obtained.
2. Reimbursement for oxygen equipment and supplies will be paid to Contractors at the amount designated in the Medicare Fee Schedule plus 15%, or at the Contractor's usual rate, not to exceed the amount designated in the Medicare Fee Schedule plus 15%. Any item not designated in the Medicare Fee Schedule will be reimbursed at 80% of usual and customary charges.
3. Any oxygen equipment/supplies with a purchase price more than \$200.00 must be pre-authorized by a MSF claims examiner in writing.
4. Contractor must provide a copy of the signed and dated medical prescription for the provision of oxygen. Prescriptions for oxygen shall include the liter flow per minute, whether continuous use is required or the hours of use per day, the recipient's PO2 or oxygen saturation blood test(s) results, and whether a stationary and/or portable system is used.
5. The Contractor must be available to provide service and/or supplies 24 hours per day, 7 days per week.
6. The monthly rental charge will include the following products and services: oxygen refills, respiratory therapist visit, equipment technician visit, and all professional travel time and mileage.
7. The Contractor will provide for the trial use of equipment to determine if it is suitable for the injured employee. Equipment which is not suitable for the injured employee will be returned at the Contractor's expense and payment will be limited to the rental for the period the equipment was used.

SCOPE OF SERVICES: DURABLE MEDICAL EQUIPMENT

1. Initial referrals for durable medical equipment will be made to Contractors serving the geographic area in which the injured employee resides. Geographic area is defined as the area in which the Contractor maintains an office at which services and maintenance for supplies can be obtained.
2. Reimbursement for durable medical equipment will be paid at the amount designated in the Medicare Fee Schedule plus 15%, or at the Contractor's usual rate, not to exceed the amount designated in the Medicare Fee Schedule plus 15%. Any item not designated in the Medicare Fee Schedule will be reimbursed at 80% of usual and customary charges.
3. The Contractor must provide a copy of the signed and dated medical prescription for all equipment.
4. Durable medical equipment related to secondary medical services must be pre-authorized by MSF. Secondary medical services are defined as:

(30)(a) "Secondary medical services" means those medical services or appliances that are

considered not medically necessary for medical stability. The services and appliances include but are not limited to spas or hot tubs, work hardening, physical restoration programs and other restoration programs designed to address disability and not impairment or equipment offered by individuals, clinics, groups, hospitals, or rehabilitation facilities.

(b)(i) As used in this subsection (30), “disability means a condition in which a worker’s ability to engage in gainful employment is diminished as a result of physical restrictions resulting from an injury. The restrictions may be combined with factors, such as the worker’s age, education, work history, and other factors that affect the worker’s ability to engage in gainful employment.

(ii) Disability does not mean a purely medical condition.

5. Any durable medical equipment with a purchase price more than \$200.00 must be pre-authorized by a MSF claims examiner in writing.
6. Wheelchairs will be replaced no more than once every five (5) years, unless it is medically determined that earlier replacement is required because the current wheelchair is causing serious health/medical problems or because of a significant change in the injured employee’s medical condition.

SCOPE OF SERVICES: BONE GROWTH STIMULATORS

1. Reimbursement for bone growth stimulators will be paid to Contractors at the amount designated in the Medicare Fee Schedule, or at the Contractor’s usual rate, not to exceed the amount designated in the Medicare Fee Schedule. Any item not designated in the Medicare Fee Schedule will be reimbursed at 80% of usual and customary charges.
2. All bone growth stimulators must be pre-authorized by a MSF claims examiner in writing. The Contractor must provide a copy of the signed and dated medical prescription for any bone growth stimulator.
3. All bone growth stimulator prescriptions, unless otherwise specified by the treating physician, will be filled with a non-invasive device rather than an implanted bone growth stimulator.
4. The non-invasive method of electrical bone growth stimulation is considered medically necessary for the treatment of:
 - a. Long-bone non-union (including: humerus, radius, ulna, femur, tibia, fibula, metacarpal, and metatarsal bones). The diagnosis of long-bone non-union must meet ALL of the following criteria:
 - At least three (3) months have passed since the date of the fracture.
 - Serial radiographs over three (3) months show not progressive signs of healing.
 - The fracture gap is 1 centimeter or less.
 - The fracture site can be adequately immobilized.
 - The patient is likely to comply with non-weight bearing requirements.
 - b. Failed joint fusion secondary to failed arthrodesis of the ankle or knee.
 - c. Failed spinal fusion defined as a spinal fusion that has not healed, as evidenced by serial x-rays, over a course of three (3) months.
 - d. Non-union fractures of short bones (i.e., scaphoid, navicular) when the following criteria are met:
 - Non-union is established when serial x-rays show no visible signs of healing of a period of three (3) months with alternative treatments.
 - The fracture gap is one (1) centimeter or less.

5. The non-invasive or invasive methods of electrical bone stimulation are considered medically necessary as an adjunct to spinal fusion surgery for individuals with one or more of the following risk factors:
 - a. Fusion to be performed at more than one level.
 - b. Previous unsuccessful spinal fusion attempts.
 - c. Grade II, or worse, spondylolisthesis.
 - d. Current, or very recent, smoking habit.
 - e. Osteoporosis, diabetes, or other metabolic diseases which influence bone healing
 - f. Renal disease
 - g. Obesity
 - h. Alcoholism
6. Low-intensity ultrasound treatment is considered medically necessary when used:
 - a. As an adjunct to conventional management (e.g., closed reduction and cast immobilization) for the treatment of fresh (< 7 days), closed fractures in skeletally mature individuals.
 - b. As a treatment of non-union fractures, excluding the skull and vertebra.
7. The Contractor must be able to provide a system, free of charge, for monitoring wear time and injured employee compliance with recommended wear time.

SCOPE OF SERVICES: TENS EQUIPMENT & SUPPLIES

1. Contractor must provide a copy of the signed and dated medical prescription for all TENS/electro-medical devices, with annual renewals provided.
2. All TENS/electro-medical equipment and related supplies must comply with current FDA regulations. Contractor is responsible for independently complying with these regulations and advising MSF of any changes in equipment, retrofitting of equipment currently in use, or replacement of out-of-date equipment.
3. See Appendix A for the TENS schedule of codes and associated reimbursement. Any TENS-related item not designated in the MSF fee schedule will be reimbursed at 80% of the usual and customary charges or Medicare plus 15% whichever is less, as approved by the MSF claims examiner.
4. The use of any miscellaneous code will be denied without prior authorization from the Medical Team Leader.
5. Any TENS/electro-medical equipment with a purchase price more than \$300.00 must be pre-authorized by the MSF claims examiner in writing.
6. All TENS/electro-medical services and supplies must be prior authorized by the claims examiner every 6 months to ensure appropriate utilization and provider billing.
7. Items included as part of the rental or purchase price of any TENS unit: carrying case, lead wires, batteries, and a battery charger. Once a unit has been purchased MSF will pay for replacement batteries, and annual replacement of lead wires unless a more frequent supply is pre-approved by the claims examiner in writing. Replacement of a battery charger may be billed on purchased units only and require written prior authorization from the claims examiner..
8. All TENS orders, unless otherwise specified by the treating physician, will be filled with a basic device.

9. The Contractor will conduct initial follow-up interviews with injured employees to ascertain delivery of equipment and comprehension of proper usage.
10. The Contractor will respond to all injured employee questions regarding the equipment and initiate replacement of damaged units and supplies.
11. The Contractor's customer service shall consist of:
 - a. initial introductory contact and instruction by a certified clinician with the injured employee prior to and after shipment of the device,
 - b. follow-up contact within the first thirty (30) days of initial shipment to ensure appropriate usage,
 - c. monitor monthly usage of device and supplies,
 - d. notify MSF of any non-compliance in the use of the device or non-responsiveness to contact attempts for 60 days, and
 - e. notify injured employees of their non-compliant status and terminate supplies accordingly, with a last month's supply provided.

SCOPE OF SERVICES: ORTHOTICS & PROSTHETICS

1. Reimbursement for orthotics and prosthetics will be based on the codes submitted and paid at the amount designated in the Medicare Fee Schedule plus 15%, or at the Contractor's usual rate, not to exceed the amount designated in the Medicare Fee Schedule plus 15%. Reimbursement for codes not specified by the Medicare fee schedule will be made at 80% of usual and customary fees and charges.
2. Any item with a rental, purchase, or replacement price more than \$200.00 must be pre-authorized in writing by the MSF claims examiner.
3. Repair and adjustment work will be paid on an hourly rate, based on the Medicare reimbursement rate. The vendor is responsible for obtaining pre-authorization from the MSF claims examiner for repair work prior to commencing this work.
4. Replacement of orthotics and prosthetics must be pre-authorized by the MSF claims examiner.
5. No additional reimbursement will be allowed for billing submitted with CPT codes that are considered inclusive when performed in conjunction with other services or supplies. Examples of this are 1) CPT codes 95851 and 95852, range of motion, which are considered inclusive when done in conjunction with the selection, design, alteration or fabrication of orthotics or prosthetics; and 2) CPT code 97116, gait analysis, which includes stair climbing, or motion analysis testing, which is considered inclusive of the charge of an orthotic. Examples given may not represent all possible exclusions. The vendor may contact MSF for verification of appropriate billing procedures.

SECTION 6 **WARRANTIES, REPAIRS, MAINTENANCE**

A warranty, equivalent to the manufacturer's warranty, on all products, equipment and services with a value of \$500.00 or greater must be provided to MSF. The warranty will include parts, labor, pick-up, and delivery. No dealer preparation charges will be allowed, unless written prior authorization from MSF is obtained. The Contractor will arrange for loaner equipment to be provided at no cost while warranty repairs are being made. The Contractor agrees that all purchased items will be new unless agreed to otherwise by MSF.

A warranty will be in effect for a minimum of 90 days for all repairs and adjustments unless it is documented that the defect was patient-caused. Any warranty that is provided by the manufacturer will be passed on to MSF.

The Contractor warrants that all products and services delivered pursuant to this contract will be free of defects and will meet the specific requirements prescribed by the treating physician. The Contractor shall correct or replace all noticeable defects in the Contractor's products or services free of charge. Inspection or acceptance of any product or service shall not act as a waiver of this warranty.

The Contractor will provide or arrange for all necessary repairs/maintenance for all supplies required by injured employees.

SECTION 7
REPRESENTATIVE LIAISON

1. MSF has designated Bridget S. McGregor, Medical Team Leader, as its Representative (Contract Officer) for purposes of this particular agreement.

Phone: 406-495-5277

E-mail: bmcgregor@montanastatefund.com

2. The Contractor has designated _____ as its Representative (Contract Officer) for the Contractor for purposes of this particular agreement.

Phone: _____

E-mail: _____

3. The Contract Officer for each party shall act as the liaison for communication between the insurer and the provider after the contract has been enacted. If either party designates someone other than the named Representative as the communication liaison, they shall notify the other party in writing within five (5) working days of the change.

SECTION 8
ACCESS TO RECORDS -- RETENTION OF RECORDS

The Contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance (Mont. Code Ann. § 18-1-118). The Contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

SECTION 9
ASSIGNMENT AND TRANSFER

Neither MSF nor the Contractor shall subcontract or assign its obligations under this contract without prior written consent of the other party. If subcontracting or assignment is approved, all requirements of the contract shall be binding to the subcontractor or assignee.

SECTION 10
REGISTRATION WITH THE SECRETARY OF STATE

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

SECTION 11
HOLD HARMLESS/INDEMNIFICATION

The Contractor agrees to protect, defend, and save the State of Montana, MSF, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of MSF, under this agreement.

SECTION 12
ADVERTISING/NEWS RELEASES

The Contractor shall not advertise or share information concerning this contract in any form, or with any media without prior written consent from MSF. This does not prohibit the Contractor from sharing contract information needed for provider relationships or efforts needed to carry out other functions described in this contract.

Upon execution of this agreement, the Contractor may issue a press release announcing said execution, provided MSF has first reviewed said release for accuracy and content. MSF shall give approval/disapproval. Approval of the press release may not be unreasonably withheld.

SECTION 13
COMPLIANCE WITH LAWS

The Contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the

same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

SECTION 14 **COMPLIANCE WITH WORKERS' COMPENSATION ACT**

The Contractor is required to supply MSF with proof of compliance with the Montana Workers' Compensation Act while performing work for MSF. (Mont. Code Ann. §§ 39-71-401, 39-71-405, and 39-71-417.) Neither the Contractor nor its employees are employees of the MSF. The proof of insurance/exemption must be in the form of workers' compensation insurance, an independent contractor exemption, or documentation of corporate officer status and must be received by MSF before contract will be executed, and must be kept current for the entire term of the contract.

CONTRACTS WILL NOT BE EXECUTED WITH VENDORS WHO FAIL TO PROVIDE THE REQUIRED DOCUMENTATION.

Coverage may be provided through a private carrier or through the State Compensation Insurance Fund (406) 444-6500. An exemption can be requested through the Department of Labor and Industry, Employment Relations Division (406) 444-1446. Corporate officers must provide documentation of their exempt status.

SECTION 15 **CONTRACT TERMINATION**

1. MSF or the Contractor, with 30 days written notice to the other, may at any time during the term of this contract, terminate this contract with cause, or if the other party:
 - a. fails to perform its contractual duties or responsibilities; or
 - b. does not meet expected performance levels; or
 - c. does not meet time frames to improve performance levels as developed by MSF and the Contractor.
2. Either party may cancel this contract without cause with 30 days written notice.
3. MSF, or the Contractor, may terminate this contract at any time if either entity ceases to exist.
4. In the event of contract termination/cancellation, the Contractor will transfer all records related to a referred claim to either MSF or a new Contractor, and neither MSF nor the new Contractor may be charged for the transfer.

SECTION 16 **MODIFICATION OF CONTRACT**

1. No modification of this agreement shall be valid or binding unless such modification is in writing, duly dated, and executed by all parties to this original agreement.

2. If any portion of this contract becomes void by order of a court of law, all other sections of this contract remain in place with full force and effect.

SECTION 17

INSURANCE REQUIREMENTS

1. The Contractor shall be required to procure and maintain for the duration of the contract, at its cost and expense, primary insurance coverage for injuries to persons or damages to property including contractual liability which may arise from or in connection with work performed by, or under general supervision of, the Contractor, his agents, representatives, employees, and subcontractors under this agreement. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.
2. The Contractor must provide a certificate for commercial general liability, to include bodily injury, personal injury, property damage and automobile liability insurance with combined single limits of not less than \$1,000,000 per occurrence, with a \$2,000,000 aggregate from an insurer with a Best's Rating of no less than A-.
3. The Contractor must also provide a certificate for professional liability insurance with combined single limits of not less than \$1,000,000 per occurrence, with a \$3,000,000 annual aggregate.
4. The Contractor must provide a certificate of insurance to MSF before contract will be executed. The certificate must provide that the Contractor will give MSF 30 days advance notice of cancellation.

CONTRACTS WILL NOT BE EXECUTED WITH VENDORS WHO FAIL TO PROVIDE THE REQUIRED DOCUMENTATION.

SECTION 18

LIMITS OF AGREEMENT

1. This instrument contains the entire Agreement between the parties, and no statements, promises of inducements made by either party, or agents of either party, which are not contained in the written Agreement shall be valid or binding. This Agreement may not be enlarged, modified or altered except as provided in Section 16, Modifications of this contract.
2. The request for proposal issued by MSF and the proposal of the Contractor are both herein incorporated and made part of this contract. If there are any discrepancies between the RFP, the Contractor Proposal, and this Contract, this Contract governs.

SECTION 19

SUCCESSORS AND ASSIGNS

This Agreement shall be binding on all successors and assigns of the Contractor, including successors in interest.

SECTION 20
VENUE

The Laws of Montana govern this contract. The parties agree that any litigation concerning this bid, proposal, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its costs and attorney fees. (Ref: 18-1-401, MCA).

SECTION 21
FAILURE OF ENFORCEMENT IS NOT A WAIVER

Failure of MSF to enforce any of the provisions of this contract does not constitute a waiver of that provision or affect any part of this contract, or the right of MSF to later enforce that provision.

SECTION 22
BEST EFFORTS OF CONTRACTOR

1. Contractor agrees that it will at all times faithfully, industriously, and to the best of its ability, experience and talents, perform all of the duties and obligations that may be required of it pursuant to the express terms of the agreement.
2. Contractor agrees to conduct itself so as not to diminish the good will and reputation of MSF and to abide by all applicable laws, rules, and regulations.
3. Contractor further agrees to comply with, abide by, and be bound by the terms, conditions and covenants of this agreement.

SECTION 23
MSF ASSISTANCE

MSF shall not supply Contractor with any assistance in the form of personnel, office equipment, or other similar and related items.

IN WITNESS WHEREOF, the parties have executed THIS AGREEMENT the day and year first below written.

«COMPANY»

MONTANA STATE FUND

By: _____

By: _____

PETER STRAUSS
VP Insurance Operations Support

Date: _____

Date: _____

Approved for Legal Content by:

NANCY BUTLER
General Counsel

Date: _____

APPENDIX A

TENS Equipment & Supplies

HCPC	ITEM	FY 15 CONTRACT RATE
A4556	Electrodes (one unit = 2 electrodes) **	Medicare Fee Schedule
A4557	Lead Wires (one unit = 2 lead wires) **	Medicare Fee Schedule, limited to annual replacement for purchased units only unless a more frequent supply is pre-approved by the claims examiner in writing.
A4558	Conductive Gel / Paste	Medicare Fee Schedule
A4595	Electrical stimulator supplies for 2-lead unit, per month	Not an allowable code
A4630	Battery	Payable on purchased units only
E0720NU	TENS Unit (2-lead unit) – Purchase	Medicare Fee Schedule
E0720RR	TENS Unit (2-lead unit) – Rent	Medicare Fee Schedule/10 mos.
E0730NU	TENS Unit (4 or more lead unit) - Purchase	Medicare Fee Schedule
E0730RR	TENS Unit (4 or more lead unit) - Rent	Medicare Fee Schedule/10 mos.
E0731NU	Conductive Garment - Purchase	Medicare Fee Schedule
E0745NU	Neuromuscular Stimulator - Purchase	Medicare rental fee schedule x 10 mos.
E0745RR	Neuromuscular Stimulator - Rent	Medicare Fee Schedule
E1399RR	Interferential (IFFY II) – Rent	\$75.00 per month up to amount of purchase limit
E1399NU	Interferential (IFFY II) – Purchase	80% of usual customary charge

Any item not listed in this appendix may not be reimbursable, and prior authorization by the Claims Examiner is recommended.

****All charges must comply with HCPC billing standards, particularly those that stipulate charges on a per pair unit basis.**

APPENDIX B - RESPONSE SHEET

MEDICARE SET-ASIDE SERVICES

By signing below, it is agreed as follows:

1. That the Scope of Services can be provided by the Contractor.
2. That Contractor accepts the Montana State Fund's Contract terms.

Authorized Representative Signature: _____

Date: _____

Telephone Number: _____

Business Name (please print): _____

Address: _____

E-mail address: _____