

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

22-20016

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of Health Care Services

CONTRACTOR NAME

County of Napa

2. The term of this Agreement is:

START DATE

July 1, 2022

THROUGH END DATE

June 30, 2025

3. The maximum amount of this Agreement is:

\$6,000,000.00 (Six Million Dollars)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

| Exhibits                       | Title                                                                                                                                                                   | Pages    |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| Exhibit A                      | Scope of Work                                                                                                                                                           | 8 Pages  |
| Exhibit B                      | Budget Detail and Payment Provisions                                                                                                                                    | 9 Pages  |
| Exhibit C*                     | General Terms and Conditions (GT 04/2017)                                                                                                                               |          |
| +<br>- Exhibit D(F)            | Special Terms and Conditions (Attached hereto as part of this agreement. Notwithstanding Provision 4.g., 15, 18, 23, 26, and 30 which does not apply to this agreement) | 27 Pages |
| +<br>- Exhibit E               | Additional Provisions                                                                                                                                                   | 7 Pages  |
| +<br>- Exhibit F               | Contractor's Release                                                                                                                                                    | 2 Pages  |
| +<br>- Exhibit G               | Business Associate Agreement                                                                                                                                            | 10 Pages |
| +<br>- Exhibit G, Attachment A | HIPAA Data Files                                                                                                                                                        | 1 Page   |

Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

County of Napa

CONTRACTOR BUSINESS ADDRESS

2751 Napa Valley Corporate Drive

CITY

Napa

STATE

CA

ZIP

94559

PRINTED NAME OF PERSON SIGNING

TITLE

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

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AGREEMENT NUMBER

22-20016

PURCHASING AUTHORITY NUMBER (If Applicable)

**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

Department of Health Care Services

CONTRACTING AGENCY ADDRESS

1501 Capital Avenue, MS 4200

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

TITLE

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

**Approved as to form:**

Date: 2/25/2022

/S/ Corey S. Utsurogi

Corey S. Utsurogi, Deputy County Counsel

**Exhibit A**  
**Scope of Work**

**1. Service Overview**

Contractor agrees to provide to the California Department of Health Care Services (DHCS) the services described herein:

Contractor shall perform County-Based Medi-Cal Administrative Activities (CMAA) on behalf of DHCS to assist in the proper and efficient administration of the Medi-Cal Program by improving the availability and accessibility of Medi-Cal Services to Medi-Cal eligible and potentially eligible individuals and their families. These activities include, but are not limited to, attending or conducting general, non-medical staff meetings, developing and monitoring program budgets and/or site management, and general non-program supervision of staff. This also includes staff break time and any time spent filling out a Time Survey Form; Medi-Cal Outreach; Referral, Coordination, and Monitoring of Medi-Cal Services; Facilitating Medi-Cal Application; Arranging or Providing Non-Emergency, Non-Medical Transportation to a Medi-Cal Covered Service; Contract Administration for Medi-Cal Services; Program Planning and Policy Development for Medi-Cal Services; Medi-Cal Administrative Activities (MAA)/Targeted Case Management (TCM) Coordination and Claims Administration; MAA/TCM Implementation; training, general administration, and paid time off.

**2. Service Location**

The activities shall be performed at applicable facilities within the County of Napa geographic region.

**3. Service Hours**

The services shall be provided during Contractor's regular business hours and days.

**4. Project Representatives**

A. The project representatives during the term of this Agreement will be:

**Department of Health Care Services**

Damitra Hawkins, Unit Chief  
County-Based Claiming and Inmate Services  
Section  
Telephone: (916) 345-7867  
E-Mail: Damitra.Hawkins@dhcs.ca.gov

**County of Napa**

Jessica Chapin  
Supervising Staff Services Analyst  
Health and Human Service  
Telephone: (707)253-4854  
E-Mail:  
Jessica.chapin@countyofnapa.org

**Exhibit A**  
Scope of Work

B. Direct all inquiries to:

**Department of Health Care Services**

County-Based Claiming and Inmate Services  
Section

Attention: Tyler Shimizu

1501 Capitol Ave., MS 2628

Sacramento, CA 95899-7436

Telephone: (916) 345-8692

E-Mail: Tyler.shimizu@dhcs.ca.gov

**County of Napa**

Jessica Chapin

Supervising Staff Services Analyst

Health and Human Service:

2751 Napa Corporate Drive

Napa, CA

Telephone: (707)253-4854

E-Mail:

Jessica.chapin@countyofnapa.org

C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

**5. Services to be Performed**

The following CMAA are eligible for Federal Financial Participation (FFP) only when they are identified in a CMAA Claiming Plan approved by the State and the Centers for Medicare and Medicaid Services (CMS):

A. **Medi-Cal Outreach:** This activity may consist of discrete campaigns or ongoing activities directed to groups or individuals with two goals:

1. Determining Medi-Cal eligibility; and
2. Bringing Medi-Cal eligible beneficiaries into Medi-Cal services.

Outreach may consist of discrete campaigns or may be an ongoing activity, such as: sending teams of employees into the community to contact homeless, alcoholics, or drug abusers; establishing a telephone or walk-in service for referring persons to Medi-Cal services or eligibility offices; operating a drop-in community center for underserved populations such as minority teenagers where Medi-Cal eligibility and service information is disseminated.

**NOTE: Public health outreach conducted by Local Government Agencies (LGAs) shall not duplicate the requirements of Medi-Cal managed care providers to pursue the enrollment of Medi-Cal eligibles in their service areas.**

3. Medi-Cal only eligibility outreach campaigns (e.g., service campaigns directed toward specific Medi-Cal services such as Early and Periodic Screening,

**Exhibit A**  
**Scope of Work**

Diagnosis and Treatment) are allowable, and the costs do not have to be discounted by the Medi-Cal percentage:

- a. Such campaigns should clearly indicate that Medi-Cal services are directed only to persons eligible for Medi-Cal.
- b. A health education program or campaign may be allowable as a Medi-Cal administrative cost if it is directed toward specific Medi-Cal services and for Medi-Cal eligible individuals, such as an educational campaign on immunization addressed to parents of Medi-Cal children.

**B. Referral, Coordination, and Monitoring of Medi-Cal Services:** Referral, Coordination, and Monitoring of Medi-Cal Services includes making referrals for, coordinating, and/or monitoring the delivery of Medi-Cal covered services.

**C. Facilitating Medi-Cal Application (Eligibility Intake):** This activity includes explaining Medi-Cal eligibility rules and the Medi-Cal eligibility process to prospective applicants; assisting an applicant to fill out a Medi-Cal eligibility application; gathering information related to the application and eligibility determination or re-determination from a client, including resource information and third party liability information, as a prelude to submitting a formal Medi-Cal application to the county welfare department; and/or providing necessary forms and packaging all forms in preparation for the Medi-Cal eligibility determination. This activity does not include the eligibility determination itself. These costs do not have to be discounted (i.e., reduced) by the Medi-Cal percentage.

**D. Arranging and/or Providing Non-Emergency, Non-Medical Transportation to a Medi-Cal covered Service:** This activity includes arranging and/or providing non-emergency, non-medical transportation for a Medi-Cal eligible client who does not have a physical or mental limitation to a Medi-Cal provider for a Medi-Cal covered service when medically necessary. It also includes arranging and/or providing non-emergency, non-medical transportation and accompaniment by an attendant, for a Medi-Cal eligible client who has a physical or mental limitation to a Medi-Cal provider for a Medi-Cal covered service when medically necessary. If the Medi-Cal eligible client does not have a physical or mental limitation, the contractor or governmental unit may provide transportation services, but will be unable to accompany the client to the Medi-Cal covered service appointment. However, LGAs may not claim arranging transportation as CMAA when performed by a TCM Case Manager. Instead, the cost of this time will be included in the TCM encounter rate, which is not separately claimable through CMAA (DHCS CMAA Program Operational Plan).

**Examples:** Providing transportation services to a Medi-Cal eligible individual to a Medi-Cal service provider. Scheduling or arranging transportation to Medi-Cal covered services. Accompanying clients (e.g., elderly, young, disabled) at a

**Exhibit A**  
Scope of Work

Medi-Cal provider medical appointment because the client has physical limitation, pursuant to 42 Code of Federal Regulations (CFR) part 440.170.

- E. **Contract Administration for Medi-Cal Services:** This activity involves entering into agreements with community-based organizations or other provider agencies for the provision of Medi-Cal services and/or CMAA, other than TCM. The costs of TCM subcontract administration should be included in the TCM rate.

**NOTE: A Contractor has the option of claiming the costs of contract administration for allowable CMAA, such as Outreach, under that activity or the costs may be claimed under Contract Administration. Under no circumstances are the costs of contract administration for allowable CMAA to be claimed under both Contract Administration and the activity, such as Outreach. Contracting for Medi-Cal services may only be claimed under Contract Administration.**

Contracting for Medi-Cal services and/or CMAA is claimable as an administrative activity when the administration of those agreements meets all of the following criteria:

1. The contract administration is performed by an identifiable unit of one or more employees, whose tasks officially involve contract administration, according to the duty statements or job descriptions of the employees being claimed.
2. The contract administration involves contractors that provide Medi-Cal services and/or CMAA. The costs of contracting for TCM services with non-LGA providers should be claimed as part of the TCM rate. These costs cannot be separately claimed as CMAA.
3. The contract administration must be directed to one or more of the following goals:
  - a. Identifying, recruiting, and contracting with community agencies as Medi-Cal service contract providers;
  - b. Providing technical assistance to Medi-Cal subcontractors regarding county, state and federal regulations;
  - c. Monitoring provider agency capacity and availability; and
  - d. Ensuring compliance with the terms of the agreement.

The contracts being administered must be for Medi-Cal services and CMAA or just CMAA and target Medi-Cal populations only or target the general population if the general population includes a Medi-Cal eligible population.

**Exhibit A**  
Scope of Work

**F. Program Planning and Policy Development (PP&PD) for Medi-Cal Services:**

This activity may be claimed at the enhanced rate (75 percent FFP) if performed by a Skilled Professional Medical Personnel (SPMP), or the non-enhanced rate (50 percent FFP) if performed by a non-SPMP.

1. Allowable: This activity is claimable when performed, either part-time or full-time, by one or more contractor employees and subcontractors whose tasks officially involve PP&PD. Contractor employees performing this activity must have the tasks identified in the employee's position descriptions/duty statements. If the programs serve both Medi-Cal and non-Medi-Cal clients, the costs of PP&PD activities must be allocated according to the Medi-Cal percentages being served by the programs.

This activity is claimable as a direct charge for Medi-Cal administration only when PP&PD is performed by a unit of one or more contractor employees who spend 100 percent of their paid working time performing this activity. This activity is claimable only if the administrative amounts being claimed for PP&PD persons and activities are not otherwise included in other claimable cost pools; and the amounts being claimed for such persons employed by (and activities taking place in) a service provider setting are not otherwise being reimbursed through the billable service rate of that provider. Costs for persons performing this activity less than 100 percent of their time will be based on a time survey.

In LGAs with countywide managed care arrangements, PP&PD activities are claimable as Medi-Cal administration only for those services that are excluded from the managed care contracts.

Under the conditions specified above, the following tasks are allowable as CMAA under these circumstances:

- a. Developing strategies to increase Medi-Cal system capacity and close Medi-Cal service gaps. This includes analyzing Medi-Cal data related to a specific program and/or specific group.
- b. Interagency coordination to improve delivery of Medi-Cal services.
- c. Developing resource directories of Medi-Cal services/providers.
- d. For subcontractors, some PP&PD support services are allowable (e.g., developing resource directories, preparing Medi-Cal data reports, conducting needs assessments, or preparing proposals for expansion of Medi-Cal services).

**Exhibit A**  
**Scope of Work**

2. Not allowable: This activity is not allowable if staff performing this function are employed full-time by service providers, such as clinics. The full costs of the employee's salary are assumed to be included in the billable fee-for-service rate. Claiming this activity separately is not allowed.

This activity is not allowable if staff who deliver services part-time in an LGA service provider setting, such as a clinic, are performing PP&PD activities relating to the service provider setting in which they deliver services.

- G. MAA/TCM Coordination and Claims Administration:** Contractor employees whose position description/duty statement includes the administration of CMAA and TCM on an LGA service region-wide basis, may claim the costs of these activities on the CMAA detailed invoice as a direct charge.

Costs incurred in the preparation and submission of CMAA claims at any level, including staff time, supplies, and time spent on a computer performing CMAA, may be direct charged. If the CMAA/TCM Coordinator and/or claims administration staff are performing this function part-time, along with other duties, they must certify the percentage of total time spent performing the duties of CMAA coordination and/or claims administration. The percentage certified for the CMAA/TCM Coordinator and/or claims administration staff activities must be used as the basis for federal claiming. Charges for supervisors, clericals, and support staff may be included, and if so must be allocated based upon the percentage of certified time of the CMAA/TCM Coordinator and claims administration staff.

1. The CMAA/TCM Coordinator and claims administration staff may claim the costs of the following activities, as well as any other reasonable activities directly related to the Contractor's administration of TCM services and CMAA at the LGA-wide level:
  - a. Drafting, revising, and submitting CMAA Claiming Plans, and TCM performance monitoring plans.
  - b. Serving as a liaison and monitoring the performance of claiming programs within the LGA and with the State and federal government on CMAA and TCM.
  - c. Administering LGA claiming, including overseeing, preparing, compiling, revising, and submitting CMAA and TCM invoices on an LGA-wide basis to the State.
  - d. Attending training sessions, meetings, and conferences involving CMAA and/or TCM.



**Exhibit A**  
Scope of Work

- e. Training contractor program and subcontractor staff on State, federal, and local requirements for CMAA and/or TCM claiming.
- f. Ensuring that CMAA and/or TCM invoices do not duplicate Medi-Cal invoices for the same services or activities from other providers. This includes ensuring that services are not duplicated when a Medi-Cal beneficiary receives TCM services from more than one case manager.

**NOTE: The costs of the CMAA/TCM Coordinator's time and claims administration staff time must not be included in the CMAA claiming or in the TCM rate since the costs associated with the time are to be direct charged. Charges for supervisors, clericals, and support staff for these employees may be included, and if so must be allocated based upon the percentage of certified time of the CMAA/TCM Coordinator and claims administration staff. The costs of TCM claiming activity at the TCM provider level are to be included in the TCM rate.**

- H. **MAA/TCM Implementation Training:** Training activities shall be time studied in accordance with the purpose of the training. Training activities include time spent providing or attending training related to the performance of CMAA or TCM. Training activities also include reasonable time spent on related paperwork, clerical activities, staff travel time necessary to perform these activities, including initiating and responding to email and voicemail. Training unrelated to CMAA is not allowable.
- I. **General Administration:** This includes activities that are eligible for cost distribution on a 2 CFR Part 200 et seq. approved cost allocation basis. These costs are to be distributed proportionately while performing the following activities:
  - 1. Attend or conduct general, non-medical staff meetings;
  - 2. Develop and monitor program budgets;
  - 3. Provide instructional leadership, site management, staff supervision, or reviews of employee performance;
  - 4. Review departmental or unit procedures and rules;
  - 5. Present or participate in, in-service orientations, and programs;
  - 6. Participate in health promotion activities for employees of the Contractor; and

**Exhibit A**  
**Scope of Work**

7. The 15 minutes that a time survey participant spent filling out the Time Survey Form at the end of the work day.

J. **Paid Time Off:** This activity is to be used by all staff involved in CMAA to record usage of paid leave, including vacation, sick leave, holiday time and any other employee time off that is paid. This does not include lunch or meal breaks, off payroll time, or Compensatory Time Off, which shall be allocated as prescribed by the State.

**6. Americans with Disabilities Act**

Contractor agrees to ensure that deliverables developed and produced, pursuant to this Agreement shall comply with the accessibility requirements of Sections 7405 and 11135 of the California Government Code, Section 508 of the Rehabilitation Act of 1973 as amended (29 U.S.C. § 794d), regulations implementing the Rehabilitation Act of 1973 as set forth in Part 1194 of Title 36 of the Code of Federal Regulations, and the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.). In 1998, Congress amended the Rehabilitation Act of 1973 to require Federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. California Government Code Sections 7405 and 11135 codifies Section 508 of the Rehabilitation Act of 1973 requiring accessibility of EIT.

- A. The County of Napa assures the state that it complies with the ADA, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.
- B. The County Napa at deliverables developed and produced pursuant to this Agreement comply with federal and state laws, regulations or requirements regarding accessibility and effective communication, including the Americans with Disabilities Act (42 U.S.C. § 12101, et. seq.), which prohibits discrimination on the basis of disability, and section 508 of the Rehabilitation Act of 1973 as amended (29 U.S.C. § 794 (d)). Specifically, electronic and printed documents intended as public communications must be produced to ensure the visual-impaired, hearing-impaired, and other special needs audiences are provided material information in the formats needed to provide the most assistance in making informed choices. These formats include but are not limited to braille, large font, and audio.

Except as amended herein, all other terms and conditions of the Contract shall remain in full force and effect.

**Exhibit B**  
Budget Detail and Payment Provisions

**1. Invoicing and Payment**

- A. For administrative activities satisfactorily rendered and upon receipt and approval of the invoices, DHCS agrees to compensate the Contractor for actual expenditures incurred in accordance with the conditions specified herein.
- B. Invoices shall include the Agreement Number and shall be submitted not more frequently than quarterly in arrears to:

| <b>U.S. Mail</b>                                                                                                                                          | <b>Overnight Mail</b>                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CMAA Analyst<br>Department of Health Care Services                                                                                                        | CMAA Analyst<br>Department of Health Care Services                                                                                                         |
| Local Governmental Financing<br>Division<br>County-Based Claiming and Inmate<br>Services Section<br>MS 2628<br>PO Box 997436<br>Sacramento, CA 95899-7436 | Local Governmental Financing<br>Division<br>County-Based Claiming and Inmate<br>Services Section<br>MS 2628<br>1501 Capitol Avenue<br>Sacramento, CA 95814 |

- C. Invoices shall:
1. Be prepared on the County-Based Medi-Cal Administrative Activities (CMAA) Invoice incorporated by reference in Exhibit E, Provision 1.
  2. Be prepared on Contractor letterhead and must be signed by an authorized official, employee or agent certifying that the expenditures claimed represent actual expenses for the activities performed under this agreement on the CMAA Invoice Summary page.
  3. Bear the Contractor's name as shown on the agreement on the CMAA Invoice.
  4. Identify the billing and/or performance period covered by the invoice on the CMAA Invoice.
  5. Itemize costs for the billing period in the same or greater level of detail as indicated in this agreement on the CMAA Invoice. Subject to the terms of this agreement, reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this agreement and approved by DHCS.
  6. Provide the State with complete invoice and expenditure information to include in the CMS 64 no later than 15 months after the end of the quarter for

**Exhibit B**

**Budget Detail and Payment Provisions**

which the claim was submitted. This information shall be provided on the standardized CMAA Invoice.

7. Identify on the CMAA Invoice, the claim categories to which expenditure data must adhere for insertion into the CMS 64. A separate CMAA Invoice shall be submitted for each program, clinic, non-governmental entity and subcontractor claiming CMAA costs pursuant to this agreement, except for contracted employees under the direct control of the Contractor. Contracted employees' costs shall be aggregated and reported in accordance with the CMAA Invoice instructions. The CMAA Invoice(s) for each of the programs claimed shall correspond to the name of the claiming programs identified in the Contractors CMAA Claiming Plan. The Invoice instructions are found in the DHCS CMAA/TCM Time Survey Methodology and DHCS CMAA Program Operational Plan incorporated by reference in Exhibit E, Provision 1.

**D. Rates Payable**

1. The invoices may include the cost of expenses of staff, the operating expenses, and equipment costs necessary to collect data, disseminate information, and carry out the staff activities outlined in this agreement.
  - a. The maximum rate of Federal reimbursement for compensation (salary and benefits), of activities qualifying under Federal regulations applying to Skilled Professional Medical Personnel (SPMP) of a public agency and their direct supporting staff shall be 75 percent of such costs for activities identified as "enhanced." The maximum rate of reimbursement for allowable costs of activities identified as "non-enhanced", performed by SPMP and their direct supporting staff, shall be 50 percent. The maximal rate of reimbursement for all allowable costs other than compensation applicable to SPMPs and their direct supporting staff shall be 50 percent.
    - 1) A SPMP is defined as an employee of the Contractor who has completed a 2- year or longer program leading to an academic degree or certification in a medically-related profession *and* who performs duties and responsibilities requiring professional medical knowledge and skills. Direct supporting staff are also employees of the Contractor. They are secretarial, stenographic, copy, file, or record clerks who are directly supervised by the SPMP, and who provide clerical services necessary for carrying out the professional medical responsibilities and administrative activities of the SPMP.
  - b. The rate of federal reimbursement is 50 percent FFP for all costs of non- SPMPs and all costs of subcontractors (non-governmental entities) performing allowable administrative activities as defined in Provision 5, Services to be Performed, of Exhibit A, Scope of Work.

**Exhibit B**  
**Budget Detail and Payment Provisions**

- c. The maximum rate of reimbursement for all non-public subcontractors to the Contractor shall be 50 percent for all categories of cost.
- E. The Contractor shall certify the certified public expenditures (CPEs) from the Contractor's General Fund, or from any other funds allowed under federal law and regulation, for Title XIX funds claimed for CMAA performed pursuant to Welfare and Institutions (W&I) Code section 14132.47. The State shall deny payment of any claim submitted under this agreement if it determines that the certification is not adequately supported for purposes of FFP. Expenditures certified for CMAA costs shall not duplicate, in whole or in part, claims made for the costs of direct patient care. DHCS shall provide a certification statement to be included with each CMAA Invoice Summary Page submitted to the State for payment for the performance of CMAA.

**2. Budget Contingency Clause**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, DHCS shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to further provide services under the CMAA program.
- B. If funding for any state fiscal year (SFY) is reduced or deleted by the Budget Act for purposes of this program, DHCS shall have the option to either cancel this Agreement with no liability occurring to DHCS, or offer an agreement amendment to Contractor to reflect the reduced amount.

**3. Prompt Payment Clause**

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with section 927.

**4. Amounts Payable**

- A. The amounts payable under this agreement shall not exceed:
  - \$2,000,000 for the budgetary period of 07/01/2022 through 06/30/2023,
  - \$2,000,000 for the budgetary period of 07/01/2023 through 06/30/2024,
  - \$2,000,000 for the budgetary period of 07/01/2024 through 06/30/2025.
- B. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the SFY in which services are performed and/or goods are received.

**Exhibit B**  
Budget Detail and Payment Provisions

**5. Timely Submission of Final Invoice**

- A. A final undisputed invoice shall be submitted for payment no more than 30 calendar days following the expiration or termination date of this Agreement, unless a later or alternate deadline is agreed to in writing by the Program Contract Manager. Said invoice should be clearly marked "Final Invoice", thus indicating that all payment obligations of DHCS under this Agreement have ceased and that no further payments are due or outstanding.
- B. DHCS may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written DHCS approval of an alternate final invoice submission deadline. Written DHCS approval shall be sought from the Program Contract Manager prior to the expiration or termination date of this Agreement.
- C. The Contractor is hereby advised of its obligation to submit, with the final invoice, a **"Contractor's Release (Exhibit F)"** acknowledging submission of the final invoice to DHCS and certifying the approximate percentage amount, if any, of recycled products used in performance of this Agreement.

**6. Participation in Medi-Cal Administrative Claiming Process**

- A. As a condition of participation in the Medi-Cal Administrative Claiming process, and in recognition of revenue generated in the Medi-Cal Administrative Claiming process, the Contractor shall pay an annual participation fee through a mechanism agreed to by the State and Contractors, or, if no agreement is reached by August 1 of each year, directly to the State.
- B. The participation fee shall be used to cover the cost of administering the Medi-Cal Administrative Claiming process, including, but not limited to, claims processing, technical assistance, and monitoring. The State shall determine and report staffing requirements upon which projected costs will be based.
- C. The amount of the participation fee shall be based upon the anticipated state salaries, benefits, operating expenses, and equipment, necessary to administer the Medi-Cal Administrative Claiming process and other costs related to that process.

**7. Non-Federal Matching Funds for CMAA**

The Contractor will expend 100 percent of the non-federal share of the cost of performing CMAA. By signing this agreement, the Contractor certifies that the funds expended for this purpose shall be from the Contractor's general fund or from any other funds allowable under federal law and regulation.

**Exhibit B**  
Budget Detail and Payment Provisions

**8. Claiming Overhead Costs**

- A. In order to claim administrative overhead costs, also referred to as "External Administrative Overhead" costs, the Contractor must have a State Controller's Office approved LGA administrative overhead cost allocation plan for the applicable period and these costs must be claimed in accordance with the allocation plan. A LGA's plan is submitted to the California State Controller's Office, which has delegated authority from the Federal Government to approve the plan.
- B. Internal (departmental) administrative overhead costs are allowable for FFP only if there is a departmental overhead indirect cost allocation plan prepared and on file for audit purposes for the applicable period and costs are claimed in accordance with 2 Code of Federal Regulations (C.F.R) part 200 et seq.
- C. Internal and external administrative cost allocation plans shall comply with provisions of 2 C.F.R part 200 et seq., entitled "Cost Principles for State, Local, and Indian Tribal Governments" and Federal Publication OASC-10, entitled "A Guide for State and Local Governments/Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government."
- D. The Contractor must assure that costs claimed as direct costs are not duplicate costs claimed through the application of the indirect cost rate.

**9. Offset of Revenues, Non-Duplication of FFP, and Federal Audit Disallowance**

- A. To the extent that other funding sources have paid or would pay for the costs at issue, FFP is not available and the costs must be removed from the total costs (2 C.F.R. part 200 et seq.). The revenue offset categories which must be applied in developing the net costs include, but are not limited to:
  - 1. All unallowable federal funds, including not only federal grants but also federal payments for services under Medicare fee-for-service or encounter rates.
  - 2. All state expenditures which have been previously matched by the Federal Government (*includes Medicaid funds for medical assistance, such as the payment rate for services under fee-for-service or encounter rates*). Claims submitted will not be duplicative of Medicaid claims for costs that are part of the all-inclusive rate for direct patient care.
  - 3. Private insurance and other fees collected from non-governmental sources.
  - 4. All applicable credits must be offset against claims for Medicaid funds. Applicable credits refer to those receipts or reduction of expenditure

**Exhibit B**  
Budget Detail and Payment Provisions

type transactions that offset or reduce expense items allocable to federal awards as direct or indirect costs.

5. A program may not claim any federal match for administrative activities if its total cost has already been paid by the revenue sources above. A government program may not be reimbursed in excess of its actual costs.
- B. Pursuant to W&I Code section 14132.47(g), DHCS shall be held harmless, in accordance with this section, from any federal audit disallowance and interest resulting from payments made to the Contractor for services under this contract, for a disallowed claim.
- C. To the extent that a federal audit disallowance and interest results from a claim or claims for which the Contractor has received reimbursement for Administrative Claiming process activities, the DHCS shall recoup from the Contractor that submitted the disallowed claim, through offsets or by a direct billing, amounts equal to the amount of the disallowance and interest, in that fiscal year, for the disallowed claim. All subsequent claims submitted to DHCS applicable to any previously disallowed administrative activity or claim, may be held in abeyance, with no payment made, until the federal disallowance issue is resolved.
- D. Notwithstanding the above paragraph, to the extent that a federal audit disallowance and interest results from a claim or claims for which the Contractor has received reimbursement for Administrative Claiming process activities performed by an entity under contract with, and on behalf of, the Contractor, DHCS shall be held harmless by the Contractor for 100 percent of the amount of the federal audit disallowance and interest, for the disallowed claim.

**10. Requirements for FFP**

- A. The reimbursement LGAs receive for their Medi-Cal program expenditures is known as FFP. 42 Code of Federal Regulations part 433.51 provides that the amount expended for providing medical assistance must be "... certified by the contribution public agency as representing expenditures eligible for FFP." Section 1903(a) of Title XIX of the Social Security Act also provides language indicating states may receive an enhancement to the FFP. Section 1903(a) (2)(A) of the Social Security Act specifically indicates federal matching at 75 percent is attributable to the compensation and/or training of SPMP, and staff direct supporting such personnel of the State agency of any other public agency. For example, when the amounts expended for providing medical assistance "are attributable to the compensation or training of SPMP, and staff directly supporting such personnel", the FFP rate shall be 75 percent. Therefore, the FFP rate for a LGA claim with eligible and certified Medi-Cal expenditures performed by a SPMP, or staff directly supporting a SPMP, in the amount of \$100 would be \$75 ( $\$100 \times .75 = \$75$ ).



**Exhibit B**

**Budget Detail and Payment Provisions**

- B. In order to meet the CPE requirements and receive FFP, LGAs must obtain and maintain supporting documentation verifying: a) 100 percent of available revenue is specifically related to performing the administrative activities and services of the Medi-Cal program; b) 100 percent of the expenditures eligible for reimbursement are specifically related to performing the administrative activities and services of the Medi-Cal program; c) the expenditures eligible for reimbursement are restricted to the actual costs incurred; d) the funds expended to account for the actual cost are from revenue sources allowable under all applicable state and federal laws and regulations; e) the administrative activity and service expenditures of the Medi-Cal program are incurred prior to requesting FFP reimbursement. The contributing public agency must certify to their allowable expenditures for the actual costs of providing services and/or activities. Community-Based Organizations (CBOs) may not utilize their private funds or certify costs. CBOs may only utilize allowable CPE contributed by a Public Agency for the actual costs related to Medi-Cal eligible services and/or activities. If a LGA has a question regarding eligible CPE or actual cost at the claiming unit or CBO level, it should contact DHCS.
- C. Per 42 C.F.R. part 432.2 et seq., and part 433.1 et seq., SPMP, and direct supporting staff, eligible for enhanced funding are defined as physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the Contractor. SPMPs do not include other non-medical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or of the Medi-Cal program.
- D. The 75 percent (enhanced) federal matching rate is only available for a Contractor that is contractually linked to DHCS to perform Medi-Cal Administrative Activities. The enhanced federal matching rate can be claimed for salaries, benefits, travel and training of SPMP and their direct supporting clerical staff who are in an employee-employer relationship with the Contractor and are involved in activities necessary for the proper and efficient administration of the Medi-Cal Program.
- E. 50 percent (non-enhanced) federal matching rate can be claimed for any of the Contractor's staff, or subcontractors, involved in the performance of activities that are necessary for the proper and efficient administration of the Medi-Cal Program. This includes claiming for SPMP and direct supporting clerical staff performing related activities that are non-enhanced. Additionally, the ability to claim SPMP under the MAA program is activity driven, not education based. Expenditures for the actual furnishing of medical services by SPMP do not qualify for reimbursement via Medi-Cal Administrative Claiming, as medical services are paid for in the fee-for-services system and managed care system.
- F. Qualifying SPMP costs may be matched at the 75 percent rate in proportion to the time worked by SPMP in performing those duties that require professional

**Exhibit B**  
Budget Detail and Payment Provisions

medical knowledge and skills, as evidenced by position descriptions, job announcements, or job classifications.

**11. Expense Allowability/Fiscal Documentation**

- A. Invoices, received from a Contractor and accepted and/or submitted for payment by DHCS, shall not be deemed evidence of allowable agreement costs.
- B. Contractor shall maintain for review and audit and supply to DHCS upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of expense allowability.
- C. If the allowability or appropriateness of an expense cannot be determined by DHCS because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, all questionable costs may be disallowed and payment may be withheld by the DHCS. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.
- D. The LGA is to establish policies and procedures to identify the Federal Award amounts passed through to sub-recipients and furnish those amounts to DHCS.

**12. Federal Audit Disallowances**

- A. In addition to the indemnification required by Exhibit C, Provision 5, and notwithstanding any other provision of this agreement, the State shall be held harmless, in accordance with Provision 2, Budget Contingency Clause, paragraphs A and B, from any federal audit disallowance and interest resulting from payments made to the Contractor pursuant to W&I Code section 14132.47, and this agreement, less the amounts already remitted to the State.
- B. To the extent that a federal audit disallowance and interest results from a claim or claims for the Contractor has received reimbursement for CMAA, the State shall recoup from the Contractor which submitted the disallowed claim, through offsets or by direct billing, amounts equal to the amount of the disallowance plus interest in that SFY, less any amount already remitted to the State for the disallowed claim. All subsequent claims submitted to the State applicable to any previously disallowed CMAA or claim, may be held in abeyance, with no payment made, until the federal disallowance issue is resolved.

**Exhibit B**

Budget Detail and Payment Provisions

- C. To the extent that a federal audit disallowance and interest results from a claim or claims for which the Contractor has received reimbursement for CMAA performed by a non-governmental entity under agreement with, and on behalf of, the Contractor, the State shall be held harmless by that particular Contractor for 100 percent of the amount of any such final federal audit disallowance and interest less the amounts already remitted to the State for the disallowed claim.

**13. Dun and Bradstreet Universal Numbering System(DUNS)**

Notwithstanding Exhibit E. 7. A. 8. definition for vendor, CMAA providers and their subcontractors are considered contractors solely for the purposes of U.S. Office of Management and Budget Uniform Guidance (2 C.F.R. section 200 et seq., and specifically, 2 C.F.R. section 200.330). Consequently, as contractors, a DUNS number is not required.

### **Special Terms and Conditions**

*(For federally funded service contracts or agreements and grant agreements)*

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

The terms "contract", "Contractor" and "Subcontractor" shall also mean, "agreement", "grant", "grant agreement", "Grantee" and "Subgrantee" respectively.

The terms "California Department of Health Care Services", "California Department of Health Services", "Department of Health Care Services", "Department of Health Services", "CDHCS", "DHCS", "CDHS", and "DHS" shall all have the same meaning and refer to the California State agency that is a party to this Agreement.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount; agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

### **Index of Special Terms and Conditions**

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## 1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the Department of Health Care Services)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, the Contractor may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

## 2. Travel and Per Diem Reimbursement

(Applicable if travel and/or per diem expenses are reimbursed with agreement funds.)

Reimbursement for travel and per diem expenses from DHCS under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources (CalHR), for nonrepresented state employees as stipulated in DHCS' Travel Reimbursement Information Exhibit. If the CalHR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to CalHR rates may be approved by DHCS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from DHCS. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

## 3. Procurement Rules

(Applicable to agreements in which equipment/property, commodities and/or supplies are furnished by DHCS or expenses for said items are reimbursed by DHCS with state or federal funds provided under the Agreement.)

### a. Equipment/Property definitions

Wherever the term equipment and/or property is used, the following definitions shall apply:

- (1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
- (2) **Minor equipment/property:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.

- b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

- c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment/property and services related to such purchases for performance under this Agreement.

- (1) Equipment/property purchases shall not exceed \$50,000 annually.

To secure equipment/property above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate DHCS Program Contract Manager, to have all remaining equipment/property purchased through DHCS' Purchasing Unit. The cost of equipment/property purchased by or through DHCS shall be deducted from the funds available in this Agreement. Contractor shall submit to the DHCS Program Contract Manager a list of equipment/property specifications for those items that the State must procure. DHCS may pay the vendor directly for such arranged equipment/property purchases and title to the equipment/property will remain with DHCS. The equipment/property will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the DHCS Program Contract Manager, in writing, of an alternate delivery address.

- (2) All equipment/property purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are either a government or public entity.
- (3) Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:
  - (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.
  - (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
  - (c) Procurements shall be conducted in a manner that provides for all of the following:
    - [1] Avoid purchasing unnecessary or duplicate items.
    - [2] Equipment/property solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
    - [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment/property, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.
- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase

authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

#### 4. Equipment/Property Ownership / Inventory / Disposition

(Applicable to agreements in which equipment/property is furnished by DHCS and/or when said items are purchased or reimbursed by DHCS with state or federal funds provided under the Agreement.)

- a. Wherever the term equipment and/or property is used in Provision 4, the definitions in Paragraph a of Provision 3 shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement shall be considered state equipment and the property of DHCS.

- (1) **Reporting of Equipment/Property Receipt** - DHCS requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by DHCS or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor shall report the receipt to the DHCS Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHCS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHCS Funds) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager.

- (2) **Annual Equipment/Property Inventory** - If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the DHCS Program Contract Manager using a form or format designated by DHCS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHCS-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
  - (b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.
  - (c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' Asset Management Unit.
- b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
  - c. Unless otherwise stipulated, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.
  - d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.
- (1) In administering this provision, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHCS Program Contract Manager.



- e. Unless otherwise stipulated by the Program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall only be used for performance of this Agreement or another DHCS agreement.
- f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the DHCS Program Contract Manager and shall, at that time, query DHCS as to the requirements, including the manner and method, of returning state equipment and/or property to DHCS. Final disposition of equipment and/or property shall be at DHCS expense and according to DHCS instructions. Equipment and/or property disposition instructions shall be issued by DHCS immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, DHCS may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different DHCS agreement.

**g. Motor Vehicles**

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under this Agreement.)

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to DHCS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

**Automobile Liability Insurance**

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the

term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.

- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
  - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Care Services).
  - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.
  - [3] The insurance carrier shall notify the California Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

## 5. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
  - (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
  - (2) DHCS may identify the information needed to fulfill this requirement.
  - (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:
    - (a) A local governmental entity or the federal government,
    - (b) A State college or State university from any State,
    - (c) A Joint Powers Authority,
    - (d) An auxiliary organization of a California State University or a California community college,
    - (e) A foundation organized to support the Board of Governors of the California Community Colleges,
    - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,

- (g) Firms or individuals proposed for use and approved by DHCS' funding Program via acceptance of an application or proposal for funding or pre/post contract award negotiations,
  - (h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Chapter 5 Section 5.80 Subsection B.2. View this publication at the following Internet address: <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/State-Contracting>
- b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.
- (1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.
- e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:
- "(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
- i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 32 and/or other numbered provisions herein that are deemed applicable.

## 6. Income Restrictions

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to DHCS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHCS under this Agreement.

## 7. Audit and Record Retention

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence,

accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.

- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896.77)
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
  - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
  - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.
- f. The Contractor shall, if applicable, comply with the Single Audit Act and the audit requirements set forth in 2 C.F.R. § 200.501 (2014).

## **8. Site Inspection**

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

## **9. Federal Contract Funds**

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.

- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.
- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

## 10. Termination

### a. For Cause

The State may terminate this Agreement, in whole or in part, and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand. If this Agreement is terminated, in whole or in part, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials, related to the terminated portion of the Contract, including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The State shall pay contract price for completed deliverables delivered and accepted and items the State requires the Contractor to transfer as described in this paragraph above.

### b. For Convenience

The State retains the option to terminate this Agreement, in whole or in part, without cause, at the State's convenience, without penalty, provided that written notice has been delivered to the Contractor at least ninety (90) calendar days prior to such termination date. In the event of termination, in whole or in part, under this paragraph, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials related to the terminated portion of the contract including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The Contractor will be entitled to compensation upon submission of an invoice and proper proof of claim for the services and products satisfactorily rendered, subject to all payment provisions of the Agreement. Payment is limited to expenses necessarily incurred pursuant to this Agreement up to the date of termination.

## 11. Intellectual Property Rights

### a. Ownership

- (1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other

legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

- (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. **Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.
- (4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

**b. Retained Rights / License Rights**

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or

default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

**c. Copyright**

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2010, etc.], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

**d. Patent Rights**

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to DHCS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to DHCS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.

**e. Third-Party Intellectual Property**

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining DHCS' prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and DHCS determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to DHCS.

**f. Warranties**

- (1) Contractor represents and warrants that:
  - (a) It is free to enter into and fully perform this Agreement.
  - (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
  - (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and

disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
  - (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
  - (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.
  - (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
  - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
- (2) DHCS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

**g. Intellectual Property Indemnity**

- (1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.
- (2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided



that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

- (3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

#### **h. Federal Funding**

In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

#### **i. Survival**

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

### **12. Air or Water Pollution Requirements**

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt by law.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 7606) section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations.
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

### **13. Prior Approval of Training Seminars, Workshops or Conferences**

Contractor shall obtain prior DHCS approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

### **14. Confidentiality of Information**

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.
- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.

- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

#### **15. Documents, Publications and Written Reports**

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

#### **16. Dispute Resolution Process**

- a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.
  - (1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.
  - (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.
- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code Section 100171.
- c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.

- d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

## 17. Financial and Compliance Audit Requirements

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
  - (1) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement;*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (2) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement,*** the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (3) ***If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by 2 C.F.R. §§ 200.64, 200.70, and 200.90) and expends \$750,000 or more in Federal awards,*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in 2 C.F.R. 200.501 entitled "Audit Requirements". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
    - (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
    - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
  - (4) If the Contractor submits to DHCS a report of an audit other than a 2 C.F.R. 200.501 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$750,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.

- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

## **18. Human Subjects Use Requirements**

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

**19. Novation Requirements**

If the Contractor proposes any novation agreement, DHCS shall act upon the proposal within 60 days after receipt of the written proposal. DHCS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHCS will initiate an amendment to this Agreement to formally implement the approved proposal.

**20. Debarment and Suspension Certification**

(Applicable to all agreements funded in part or whole with federal funds.)

- a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 2 CFR 180, 2 CFR 376
- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
  - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
  - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any other offense indicating a lack of business integrity or business honesty that seriously affects its business honesty;
  - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
  - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
  - (5) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 CFR Part 180, Subpart C as supplemented by 2 CFR Part 376.
  - (6) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
  - (7) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.
- d. The terms and definitions herein have the meanings set out in 2 CFR Part 180 as supplemented by 2 CFR Part 376.
- e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

**21. Smoke-Free Workplace Certification**

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

- a. 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 is Medicare or Medicaid; or facilities where WIC coupons are redeemed.
- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this Agreement, Contractor or Grantee certifies that it 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. The prohibitions herein are effective December 26, 1994.
- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

**22. Covenant Against Contingent Fees**

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, DHCS shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

**23. Payment Withholds**

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, DHCS may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHCS receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

**24. Performance Evaluation**

(Not applicable to grant agreements.)

DHCS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHCS. Negative performance evaluations may be considered by DHCS prior to making future contract awards.

**25. Officials Not to Benefit**

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

**26. Four-Digit Date Compliance**

(Applicable to agreements in which Information Technology (IT) services are provided to DHCS or if IT equipment is procured.)

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

**27. Prohibited Use of State Funds for Software**

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

**28. Use of Small, Minority Owned and Women's Businesses**

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

- (1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

**29. Alien Ineligibility Certification**

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

**30. Union Organizing**

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

**31. Contract Uniformity (Fringe Benefit Allowability)**

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHCS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
  - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
  - (2) Director's and executive committee member's fees.
  - (3) Incentive awards and/or bonus incentive pay.
  - (4) Allowances for off-site pay.
  - (5) Location allowances.
  - (6) Hardship pay.
  - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
  - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:
  - (1) Be necessary and reasonable for the performance of the Agreement.
  - (2) Be determined in accordance with generally accepted accounting principles.
  - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.



## f. Earned/Accrued Compensation

- (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
- (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.
- (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

(a) **Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

(b) **Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

(c) **Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHCS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

**32. Suspension or Stop Work Notification**

- a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.
- b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.
  - (1) Upon receipt of a suspension or stop work notification, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.
  - (2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:
    - (a) Cancel, extend, or modify the suspension or stop work notification; or

- (b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.
- c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.
- d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.
- e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.
- f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

### **33. Public Communications**

"Electronic and printed documents developed and produced, for public communications shall follow the following requirements to comply with Section 508 of the Rehabilitation Act and the American with Disabilities Act:

- A. Ensure visual-impaired, hearing-impaired and other special needs audiences are provided material information in formats that provide the most assistance in making informed choices."

### **34. Compliance with Statutes and Regulations**

- a. The Contractor shall comply with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to Contractor's performance under the Agreement.
- b. These authorities include, but are not limited to, Title 2, Code of Federal Regulations (CFR) Part 200, subpart F, Appendix II; Title 42 CFR Part 431, subpart F; Title 42 CFR Part 433, subpart D; Title 42 CFR Part 434; Title 45 CFR Part 75, subpart D; and Title 45 CFR Part 95, subpart F. To the extent applicable under federal law, this Agreement shall incorporate the contractual provisions in these federal regulations and they shall supersede any conflicting provisions in this Agreement.

### **35. Lobbying Restrictions and Disclosure Certification**

(Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of Title 31, U.S.C.)

- a. Certification and Disclosure Requirements
  - (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of Title 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
  - (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.
  - (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:

- (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
  - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
  - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay 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 any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

**Attachment 1  
State of California  
Department of Health Care Services**

**CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, 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 of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

City and County of Napa

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Printed Name of Person Signing for Contractor

22-20016

\_\_\_\_\_  
Contract / Grant Number

\_\_\_\_\_  
Signature of Person Signing for Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

After execution by or on behalf of Contractor, please return to:

California Department of Health Care Services  
Local Governmental Financing Division  
County-Based Medi-Cal Administrative Activities Unit  
1501 Capitol Avenue  
P.O. Box 997436, MS 2628  
Sacramento, CA 95899-7436

DHCS reserves the right to notify the contractor in writing of an alternate submission address.

## Attachment 2

## CERTIFICATION REGARDING LOBBYING

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure)

Approved by OMB

0348-0046

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                          |                                                                                                                                                                                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Type of Federal Action:<br><input type="checkbox"/> a. contract<br><input type="checkbox"/> b. grant<br><input type="checkbox"/> c. cooperative agreement<br><input type="checkbox"/> d. loan<br><input type="checkbox"/> e. loan guarantee<br><input type="checkbox"/> f. loan insurance                                                                                                                                                                                                                         | 2. Status of Federal Action:<br><input type="checkbox"/> a. bid/offer/application<br><input type="checkbox"/> b. initial award<br><input type="checkbox"/> c. post-award | 3. Report Type:<br><input type="checkbox"/> a. initial filing<br><input type="checkbox"/> b. material change<br>For Material Change Only:<br>Year ____ quarter ____<br>date of last report _____. |
| 4. Name and Address of Reporting Entity:<br><br><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee<br>Tier ____, if known:<br><br>Congressional District, If known:                                                                                                                                                                                                                                                                                                                                  | 5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:<br><br>Congressional District, If known:                                                 |                                                                                                                                                                                                   |
| 6. Federal Department/Agency                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 7. Federal Program Name/Description:<br><br>CDFA Number, if applicable: _____                                                                                            |                                                                                                                                                                                                   |
| 8. Federal Action Number, if known:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 9. Award Amount, if known:<br><br>\$                                                                                                                                     |                                                                                                                                                                                                   |
| 10.a. Name and Address of Lobbying Registrant<br><i>(If individual, last name, first name, MI):</i>                                                                                                                                                                                                                                                                                                                                                                                                                  | b. Individuals Performing Services <i>(including address if different from 10a. (Last name, First name, MI):</i>                                                         |                                                                                                                                                                                                   |
| 11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person that fails to file the required disclosure shall be subject to a not more than \$100,000 for each such failure. | Signature: _____                                                                                                                                                         |                                                                                                                                                                                                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Print Name: _____                                                                                                                                                        |                                                                                                                                                                                                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Title: _____                                                                                                                                                             |                                                                                                                                                                                                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Telephone No.: _____ Date: _____                                                                                                                                         |                                                                                                                                                                                                   |
| <b>Federal Use Only</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                          | Authorized for Local Reproduction<br>Standard Form-LLL (Rev. 7-97)                                                                                                                                |

**INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
 (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**Exhibit E**  
Additional Provisions

**1. Additional Incorporated Exhibits**

A. The following documents and any subsequent updates are not attached, but are incorporated herein and made a part hereof by this reference. Contractors are required to fully comply with the directives in each document incorporated by reference herein and each update thereto. These documents may be updated periodically by DHCS, as required by program directives or changes in law or policy. Unless otherwise indicated, DHCS shall provide the Contractor with copies of said documents at or before the agreement is presented to the Contractor for review, acceptance, and signature and will require acknowledgment of receipt. Periodic updates to the below listed documents will be presented to the Contractor under separate cover and acknowledgment of receipt will be required. DHCS will maintain on file, all documents referenced herein and any subsequent updates.

- 1) Policy & Procedure Letters (PPL)\*
- 2) DHCS CMAA/TCM Time Survey Methodology and DHCS CMAA Program Operational Plan \*
- 3) CMAA Invoice Documents\*
- 4) CMAA Training Materials\*

\*View at [www.dhcs.ca.gov/provgovpart/Pages/CMAA.aspx](http://www.dhcs.ca.gov/provgovpart/Pages/CMAA.aspx)

**2. Priority of Provisions**

In the event of a conflict between the provisions of Exhibit A and any other exhibit of this contract, the CMAA Claiming Plan and federal and state law and policy, the CMAA provisions of Exhibit A shall prevail.

**3. Amendment Process**

Should either party, during the term of this agreement, desire a change or amendment to the terms of this agreement, such changes or amendments shall be proposed in writing to the other party, who will respond in writing as to whether the proposed changes/amendments are accepted or rejected. If accepted and after negotiations are concluded, the agreed upon changes shall be made through the State's official agreement amendment process, unless otherwise stipulated within this agreement. No amendment will be considered binding on either party until it is formally approved by both parties and the Department of General Services (DGS), if DGS approval is required.

**Exhibit E**  
Additional Provisions

**4. Cancellation/Termination**

- A. This agreement may be cancelled or terminated without cause by either party by giving 30 calendar days advance written notice to the other party. Such notification shall state the effective date of termination or cancellation and include any final performance and/or payment/invoicing instructions/requirements.
- B. Upon receipt of a notice of termination or cancellation from DHCS, Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent agreement costs.
- C. The Contractor shall be entitled to payment for all allowable costs authorized under this agreement, including authorized non-cancelable obligations incurred up to the date of termination or cancellation, provided such expenses do not exceed the stated maximum amounts payable.

**5. Contractor Responsibilities**

- A. The Contractor shall comply with 42 United States Code (USC), part 1396 et seq., 42 Code of Federal Regulations (CFR) part 400 et seq., and 45 CFR part 95, California Welfare and Institutions Code, Division 9, part 3, Chapter 7 (commencing with part 14000) and Chapter 8 (commencing with part 14200), and Title 22 California Code of Regulations (CCR), Division 3 (commencing with part 50000), all as periodically amended; State issued policy directives; 2 CFR part 200 et. Seq., as periodically amended.
- B. If the Contractor enters into contracts with other organizations to perform CMAA in support of the Contractor claiming administrative reimbursement, the Contractor shall have any contract to perform administrative activities under the auspices of the Medi-Cal Program available for State and/or Federal review.
- C. The Contractor is responsible for the acts or omissions of its employees and/or subcontractors. Submission of a falsified CMAA invoice by a Contractor shall constitute a breach of contract. Submission of a CMAA invoice for which there is no supporting documentation by a Contractor may constitute a breach of contract.
- D. The conviction of an employee or subcontractor of the Contractor, or of an employee of a subcontractor, of any felony or of a misdemeanor involving fraud, abuse of any Medi-Cal applicant or beneficiary, or abuse of the Medi-Cal Program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in the Medi-Cal Administrative Claiming process. Failure of a Contractor to exclude a convicted individual from participation in the Medi-Cal Administrative Claiming process shall constitute a breach of contract.



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- E. Exclusion after conviction shall result regardless of any subsequent order under Part 1203.4 of the Penal Code allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.
- F. Suspension or exclusion of an employee or subcontractor, or of an employee of a subcontractor, from participation in the Medi-Cal Program, the Medicaid Program, or the Medicare Program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in the Medi-Cal Administrative Claiming process. Failure of a Contractor to exclude a suspended or excluded individual from participation in the Medi-Cal Administrative Claiming process shall constitute a breach of contract.
- G. Revocation, suspension, or restriction of the license, certificate, or registration of any employee, subcontractor, or employee of a subcontractor, shall result in exclusion from the Medi-Cal Administrative Claiming process, when such license, certificate, or registration is required for the performance of Medi-Cal administrative activities. Failure of a Contractor to exclude an individual whose license, certificate, or registration has been revoked, suspended, or restricted, from participation in the Medi-Cal Administrative Claiming process, may constitute a breach of contract.
- H. LGA budget units that elect to participate in the CMAA and/or TCM programs are required to conduct time surveys to account for staff time spent performing Medi-Cal and non-Medi-Cal eligible services and activities. The time survey results are used in the determination of allowable Medi-Cal costs. The activities of staff providing Medi-Cal administration must be documented in accordance with the provisions of 42 CFR parts 432.50, 433.32, and 433.34, and 45 CFR parts 74 and 95, and 2 CFR part 200 et. Seq.
- I. All non-Medi-Cal related activities and direct patient care services shall be time surveyed to "Other Programs/Activities" or "Direct Patient Care" on the Time Survey form, as appropriate.
- J. The Contractor shall comply with enabling legislation, regulations, administrative claiming process directives, and the PPLs of DHCS Local Governmental Financing Division incorporated by reference in Exhibit E, Provision 1, which define program specific allowable CMAA.
- K. The Contractor shall provide to the State, comprehensive Medi-Cal Administrative Claiming Plan, in the format specified by the State. The claiming plan must be approved by the State and this agreement must be signed by both parties prior to the submission of CMAA invoices.

**Exhibit E**  
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- L. The Contractor shall not discriminate against any eligible person because of race, religion, political beliefs, color, national or ethnic origin, ancestry, mental or physical disability, medical condition, marital status, age, or sex.
- M. The Contractor shall ensure all applicable State and Federal requirements, as identified in Exhibit E, Provision 4, are met in performing CMAA under this agreement. It is understood and agreed that failure by the Contractor to ensure all applicable State and Federal requirements not met in performing CMAA under this agreement shall be sufficient cause for the State to deny or recoup payments to the Contractor and/or to terminate this agreement.
- N. Abide by the Business Associate Agreement (BAA) (Exhibit G), as incorporated herein and made part of this agreement by reference. Data released to LGAs is to be used solely for the purpose of verifying Medi-Cal eligibility of the beneficiaries. The data elements used are listed in attachment A”.
- O. The Contractor shall submit a letter of intent to participate in the CMAA Program six months prior to the termination of this agreement for the purpose of extending the term of the agreement or initiating a new agreement, whichever is preferred by DHCS.
- P. When an amendment of the contract is necessary because the original projected expenditures shortfall the actual expenditures, a request must be submitted to DHCS at least 6 months prior to the end of the state fiscal year (SFY) for which additional funding is necessary. If this request is not received timely, the contract will not be amended to address the insufficient funding and subsequent affected invoices will not be paid.

**6. State Responsibilities**

- A. Review, approve, as appropriate, and process Contractor claims for reimbursement of the allowable actual costs of providing administrative activities necessary for the proper and efficient administration of the Medi-Cal Program. Reimbursement shall be made subsequent to the quarter for which a claim for CMAA is made. Any claim that cannot be approved shall be returned to the Contractor with a written explanation of the basis for disapproval.
- B. Provide the Contractor with a standardized format for the CMAA Invoice and CMAA Claiming Plan which will be disseminated through policy directives issued by the State.
- C. Review CMAA Claiming Plan and amendment(s) to the CMAA Claiming Plan. Any amendment that cannot be approved shall be returned to the Contractor with a written explanation of the basis for disapproval. Any amendment to the CMAA Claiming Plan shall not require a formal amendment to the agreement but may

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instead be effective via written approval of the amended CMAA Claiming Plan signed by DHCS.

- D. Provide program monitoring and oversight including conducting site reviews at least once every four years for compliance with state and federal requirements and regulations. DHCS will retain ultimate responsibility for program oversight and policy interpretation.
- E. Submit approved CMAA Claiming Plans and amendments to the Centers for Medicare and Medicaid Services (CMS) for review and approval if required.
- F. Make available to Contractors, training and technical support on proper administrative activities to be claimed, identifying costs related to these activities, and billing procedures. Training material is to be developed by and/or approved by DHCS.

**7. Joint Responsibilities**

The State and the Contractor hereby agree to comply with all applicable laws governing the confidentiality of client information for Medi-Cal clients served by the Contractor, or subcontractor, under this agreement. Applicable laws include, but are not limited to, 42 USC. part 1396a(a)7, 42 CFR part 431.300, 45 CFR parts 160, 162, and 164, Welfare and Institutions Code, section 14100.2, and 22 CCR, section 51009.

**8. Audit**

A. This provision supersedes Provision #4, entitled "Audit" in General Terms & Conditions (GTC 610). View Exhibit C at the following Internet site: <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/Standard-Contract-Language>

B. Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative, and employees of the California Department of Justice, and the United States CMS, shall have the right to review, access, examine, monitor, audit, and to copy any records and supporting documentation pertaining to the performance of this agreement. Contractor agrees to allow interviews of any employees, or staff of any subcontractor, who might reasonably have information related to such records by either state and/or federal authorities. Contractor agrees to retain all necessary records for a minimum period of three (3) years after the end of the quarter in which the Contractor receives reimbursement for the expenditures incurred. If an audit is in progress, all records relevant to the audit shall be retained until the completion of the audit or the final resolution of all audit exceptions, deferrals, and/or disallowances, whichever is later, and if litigation has been initiated, all necessary records shall be retained until the

final resolution of the litigation. The records shall fully disclose the type and extent of administrative activities performed by the appropriate staff. The Contractor shall furnish such documentation and any other information regarding the performance of and payment for CMAA, upon request, to the state or federal government.

## 9. Definitions

The following definitions are applicable to this Contract.

- A. "CFDA number" means the number assigned to a federal program in the Catalog of Federal Domestic Assistance (CFDA).
  - B. "Federal award" means federal financial assistance and federal cost-reimbursement contracts that non-federal entities receive directly from federal awarding agencies or indirectly from pass-through entities. It does not include procurement contracts, under grants or contracts used to buy goods or services from vendors.
  - C. "Federal awarding agency" means the federal agency that provides an award directly to the recipient.
  - D. "Federal program" means all federal awards to a non-federal entity assigned a single number in the CDFA.
  - E. "Pass-through entity" means a non-federal entity that provides a federal award to a subrecipient to carry out a federal program.
  - F. "Recipient" means a non-federal entity that expends federal awards received directly from a federal awarding agency to carry out a federal program.
  - G. "Subrecipient" means a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency. Guidance on distinguishing between a subrecipient and a vendor is provided in OMB Circular A-133.
  - H. "Vendor" means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the federal program. Additional guidance on distinguishing between a subrecipient and a vendor is provided on OMB Circular A-133.
- B. The definitions in Provision 7, Item A, shall be included in all of Contractor's contracts with subrecipients and vendors.

**Exhibit E**  
Additional Provisions

C. Additional definitions applicable to this Contract:

- A. "Direct charge" means to report CMAA costs for staff that perform Medi-Cal eligible activities either 100 percent of the time or in distinct and documented blocks of time.
- B. "Medi-Cal percentage" means for some CMAA, LGAs claim allowable costs based on how many members of a group of people are Medi-Cal beneficiaries; this number is the Medi-Cal percentage. Costs are discounted (i.e. reduced) by the Medi-Cal percentage when the activity is directed toward a group of people that is only partly composed of Medi-Cal eligible persons. The Medi-Cal percentage is the fraction of a total population (target population) that consists of Medi-Cal beneficiaries. The numerator is the number of clients served by the claiming unit that are Medi-Cal beneficiaries, and the denominator is the total number of clients served by the claiming unit. Discount methods approved by DHCS and CMS for calculating the Medi-Cal percentage discount may be utilized.

**Contractor's Release****Exhibit F**

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**Instructions to Contractor:****Final Invoice(s)**

Submit one original invoice signed by a person authorized to bind the Contractor. The original invoice may be submitted and signed electronically using an authorized electronic signature in accordance with California State Administrative Manual 1240. The only authorized form of electronic signature is a digital signature that meets requirements under California Government Code 16.5 and California Secretary of State Regulations for Digital Signatures.

**Submission of Final Invoice**

Pursuant to contract number **22-20016** entered into between the Department of Health Care Services (DHCS) and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via invoice number(s) \_\_\_\_\_, in the amount(s) of \$ \_\_\_\_\_ and dated \_\_\_\_\_.

If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

**Release of all Obligations**

By signing this form, and upon receipt of the amount specified in the invoice number(s) referenced above, the Contractor does hereby release and discharge the State, its officers, agents and employees of and from any and all liabilities, obligations, claims, and demands whatsoever arising from the above referenced contract.

**Repayments Due to Audit Exceptions / Record Retention**

By signing this form, Contractor acknowledges that expenses authorized for reimbursement does not guarantee final allowability of said expenses. Contractor agrees that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment will be refunded to the State.

All expense and accounting records related to the above referenced contract must be maintained for audit purposes for no less than three years beyond the date of final payment, unless a longer term is stated in said contract.

**Recycled Product Use Certification**

By signing this form, Contractor certifies under penalty of perjury that a minimum of 0% unless otherwise specified in writing of post-consumer material, as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether it meets the requirements of Public Contract Code Section 12209. Contractor specifies that printer or duplication cartridges offered or sold to the State comply with the requirements of Section 12156(e).

**Reminder to Return State Equipment/Property (If Applicable)**

(Applies only if equipment was provided by DHCS or purchased with or reimbursed by contract funds)

Unless DHCS has approved the continued use and possession of State equipment (as defined in the above referenced contract) for use in connection with another DHCS agreement, Contractor agrees to promptly initiate arrangements to account for and return said equipment to DHCS, at DHCS' expense, if said equipment has not passed its useful life expectancy as defined in the above referenced contract.

**Patents / Other Issues**

By signing this form, Contractor further agrees, in connection with patent matters and with any claims that are not specifically released as set forth above, that it will comply with all of the provisions contained in the above referenced contract, including, but not limited to, those provisions relating to notification to the State and related to the defense or prosecution of litigation.

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**ONLY SIGN AND DATE THIS DOCUMENT WHEN ATTACHING IT TO THE FINAL INVOICE**

Contractor's Legal Name (as on contract): County of Napa

Signature of Contractor or Official Designee: \_\_\_\_\_

Printed Name/Title of Person Signing: \_\_\_\_\_

Date: \_\_\_\_\_

**Distribution:**          Accounting (Original)          Program

Exhibit G

**Business Associate Addendum**

1. This Agreement has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act (HIPAA) and its implementing privacy and security regulations at 45 Code of Federal Regulations, Parts 160 and 164 (collectively, and as used in this Agreement)
2. The term “Agreement” as used in this document refers to and includes both this Business Associate Addendum and the contract to which this Business Associate Agreement is attached as an exhibit, if any.
3. For purposes of this Agreement, the term “Business Associate” shall have the same meaning as set forth in 45 CFR section 160.103.
4. The Department of Health Care Services (DHCS) intends that Business Associate may create, receive, maintain, transmit or aggregate certain information pursuant to the terms of this Agreement, some of which information may constitute Protected Health Information (PHI) and/or confidential information protected by Federal and/or state laws.
  - 4.1 As used in this Agreement and unless otherwise stated, the term “PHI” refers to and includes both “PHI” as defined at 45 CFR section 160.103 and Personal Information (PI) as defined in the Information Practices Act (IPA) at California Civil Code section 1798.3(a). PHI includes information in any form, including paper, oral, and electronic.
  - 4.2 As used in this Agreement, the term “confidential information” refers to information not otherwise defined as PHI in Section 4.1 of this Agreement, but to which state and/or federal privacy and/or security protections apply.
5. Contractor (however named elsewhere in this Agreement) is the Business Associate of DHCS acting on DHCS's behalf and provides services or arranges, performs or assists in the performance of functions or activities on behalf of DHCS, and may create, receive, maintain, transmit, aggregate, use or disclose PHI (collectively, “use or disclose PHI”) in order to fulfill Business Associate’s obligations under this Agreement. DHCS and Business Associate are each a party to this Agreement and are collectively referred to as the “parties.”
6. The terms used in this Agreement, but not otherwise defined, shall have the same meanings as those terms in HIPAA and/or the IPA. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.



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**7. Permitted Uses and Disclosures of PHI by Business Associate**

Except as otherwise indicated in this Agreement, Business Associate may use or disclose PHI, inclusive of de-identified data derived from such PHI, only to perform functions, activities or services specified in this Agreement on behalf of DHCS, provided that such use or disclosure would not violate HIPAA or other applicable laws if done by DHCS.

**7.1 Specific Use and Disclosure Provisions**

Except as otherwise indicated in this Agreement, Business Associate may use and disclose PHI if necessary for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate. Business Associate may disclose PHI for this purpose if the disclosure is required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person. The person shall notify the Business Associate of any instances of which the person is aware that the confidentiality of the information has been breached, unless such person is a treatment provider not acting as a business associate of Business Associate.

**8. Compliance with Other Applicable Law**

**8.1** To the extent that other state and/or federal laws provide additional, stricter and/or more protective (collectively, more protective) privacy and/or security protections to PHI or other confidential information covered under this Agreement beyond those provided through HIPAA, Business Associate agrees:

**8.1.1** To comply with the more protective of the privacy and security standards set forth in applicable state or federal laws to the extent such standards provide a greater degree of protection and security than HIPAA or are otherwise more favorable to the individuals whose information is concerned; and

**8.1.2** To treat any violation of such additional and/or more protective standards as a breach or security incident, as appropriate, pursuant to Section 18. of this Agreement.

**8.2** Examples of laws that provide additional and/or stricter privacy protections to certain types of PHI and/or confidential information, as defined in Section 4. of this Agreement, include, but are not limited to the Information Practices Act, California Civil Code sections 1798-1798.78, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, Welfare and

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Institutions Code section 5328, and California Health and Safety Code section 11845.5.

- 8.3** If Business Associate is a Qualified Service Organization (QSO) as defined in 42 CFR section 2.11, Business Associate agrees to be bound by and comply with subdivisions (2)(i) and (2)(ii) under the definition of QSO in 42 CFR section 2.11.

**9. Additional Responsibilities of Business Associate**

**9.1 Nondisclosure**

- 9.1.1** Business Associate shall not use or disclose PHI or other confidential information other than as permitted or required by this Agreement or as required by law.

**9.2 Safeguards and Security**

- 9.2.1** Business Associate shall use safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI and other confidential data and comply, where applicable, with subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the information other than as provided for by this Agreement. Such safeguards shall be based on applicable Federal Information Processing Standards (FIPS) Publication 199 protection levels.
- 9.2.2** Business Associate shall, at a minimum, utilize a National Institute of Standards and Technology Special Publication (NIST SP) 800-53 compliant security framework when selecting and implementing its security controls and shall maintain continuous compliance with NIST SP 800-53 as it may be updated from time to time. The current version of [NIST SP 800-53, Revision 5](#), is available online at; updates will be available online through the [Computer Security Resource Center website](#).
- 9.2.3** Business Associate shall employ FIPS 140-2 validated encryption of PHI at rest and in motion unless Business Associate determines it is not reasonable and appropriate to do so based upon a risk assessment, and equivalent alternative measures are in place and documented as such. FIPS 140-2 validation can be determined online through the [Cryptographic Module Validation Program Search](#), with information about the [Cryptographic Module Validation Program under FIPS 140-2](#). In addition, Business Associate shall maintain, at a minimum, the most current industry standards for transmission and storage of PHI and other confidential information.

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- 9.2.4** Business Associate shall apply security patches and upgrades, and keep virus software up-to-date, on all systems on which PHI and other confidential information may be used.
- 9.2.5** Business Associate shall ensure that all members of its workforce with access to PHI and/or other confidential information sign a confidentiality statement prior to access to such data. The statement must be renewed annually.
- 9.2.6** Business Associate shall identify the security official who is responsible for the development and implementation of the policies and procedures required by 45 CFR Part 164, Subpart C.

**9.3 Business Associate's Agent**

Business Associate shall ensure that any agents, subcontractors, subawardees, vendors or others (collectively, "agents") that use or disclose PHI and/or confidential information on behalf of Business Associate agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI and/or confidential information.

**10. Mitigation of Harmful Effects**

Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI and other confidential information in violation of the requirements of this Agreement.

**11. Access to PHI**

Business Associate shall make PHI available in accordance with 45 CFR section 164.524.

**12. Amendment of PHI**

Business Associate shall make PHI available for amendment and incorporate any amendments to protected health information in accordance with 45 CFR section 164.526.

**13. Accounting for Disclosures**

Business Associate shall make available the information required to provide an accounting of disclosures in accordance with 45 CFR section 164.528.

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**14. Compliance with DHCS Obligations**

To the extent Business Associate is to carry out an obligation of DHCS under 45 CFR Part 164, Subpart E, comply with the requirements of the subpart that apply to DHCS in the performance of such obligation.

**15. Access to Practices, Books and Records**

Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI on behalf of DHCS available to DHCS upon reasonable request, and to the federal Secretary of Health and Human Services for purposes of determining DHCS' compliance with 45 CFR Part 164, Subpart E.

**16. Return or Destroy PHI on Termination; Survival**

At termination of this Agreement, if feasible, Business Associate shall return or destroy all PHI and other confidential information received from, or created or received by Business Associate on behalf of, DHCS that Business Associate still maintains in any form and retain no copies of such information. If return or destruction is not feasible, Business Associate shall notify DHCS of the conditions that make the return or destruction infeasible, and DHCS and Business Associate shall determine the terms and conditions under which Business Associate may retain the PHI. If such return or destruction is not feasible, Business Associate shall extend the protections of this Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

**17. Special Provision for SSA Data**

If Business Associate receives data from or on behalf of DHCS that was verified by or provided by the Social Security Administration (SSA data) and is subject to an agreement between DHCS and SSA, Business Associate shall provide, upon request by DHCS, a list of all employees and agents and employees who have access to such data, including employees and agents of its agents, to DHCS.

**18. Breaches and Security Incidents**

Business Associate shall implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and take the following steps:

**18.1 Notice to DHCS**

- 18.1.1** Business Associate shall notify DHCS immediately upon the discovery of a suspected breach or security incident that involves SSA data. This notification will be provided by email upon discovery of the breach. If Business Associate is unable to provide notification by email, then Business Associate shall provide notice by telephone to DHCS.

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**18.1.2** Business Associate shall notify DHCS within 24 hours by email (or by telephone if Business Associate is unable to email DHCS) of the discovery of the following, unless attributable to a treatment provider that is not acting as a business associate of Business Associate:

**18.1.2.1** Unsecured PHI if the PHI is reasonably believed to have been accessed or acquired by an unauthorized person;

**18.1.2.2** Any suspected security incident which risks unauthorized access to PHI and/or other confidential information;

**18.1.2.3** Any intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement; or

**18.1.2.4** Potential loss of confidential information affecting this Agreement.

**18.1.3** Notice shall be provided to the DHCS Program Contract Manager (as applicable), the DHCS Privacy Office, and the DHCS Information Security Office (collectively, "DHCS Contacts") using the DHCS Contact Information in Section 18.6.

Notice shall be made using the current DHCS "Privacy Incident Reporting Form" ("PIR Form"; the initial notice of a security incident or breach that is submitted is referred to as an "Initial PIR Form") and shall include all information known at the time the incident is reported. The form is available online at the [DHCS Data Privacy webpage](#).

Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PHI, Business Associate shall take:

**18.1.3.1** Prompt action to mitigate any risks or damages involved with the security incident or breach; and

**18.1.3.2** Any action pertaining to such unauthorized disclosure required by applicable Federal and State law.

**18.2 Investigation**

Business Associate shall immediately investigate such security incident or breach.

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**18.3 Complete Report**

To provide a complete report of the investigation to the DHCS contacts within ten (10) working days of the discovery of the security incident or breach. This “Final PIR” must include any applicable additional information not included in the Initial Form. The Final PIR Form shall include an assessment of all known factors relevant to a determination of whether a breach occurred under HIPAA and other applicable federal and state laws. The report shall also include a full, detailed corrective action plan, including its implementation date and information on mitigation measures taken to halt and/or contain the improper use or disclosure. If DHCS requests information in addition to that requested through the PIR form, Business Associate shall make reasonable efforts to provide DHCS with such information. A “Supplemental PIR” may be used to submit revised or additional information after the Final PIR is submitted. DHCS will review and approve or disapprove Business Associate’s determination of whether a breach occurred, whether the security incident or breach is reportable to the appropriate entities, if individual notifications are required, and Business Associate’s corrective action plan.

**18.3.1** If Business Associate does not complete a Final PIR within the ten (10) working day timeframe, Business Associate shall request approval from DHCS within the ten (10) working day timeframe of a new submission timeframe for the Final PIR.

**18.4 Notification of Individuals**

If the cause of a breach is attributable to Business Associate or its agents, other than when attributable to a treatment provider that is not acting as a business associate of Business Associate, Business Associate shall notify individuals accordingly and shall pay all costs of such notifications, as well as all costs associated with the breach. The notifications shall comply with applicable federal and state law. DHCS shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made.

**18.5 Responsibility for Reporting of Breaches to Entities Other than DHCS**

If the cause of a breach of PHI is attributable to Business Associate or its agents, other than when attributable to a treatment provider that is not acting as a business associate of Business Associate, Business Associate is responsible for all required reporting of the breach as required by applicable federal and state law.

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**18.6 DHCS Contact Information**

To direct communications to the above referenced DHCS staff, the Contractor shall initiate contact as indicated here. DHCS reserves the right to make changes to the contact information below by giving written notice to Business Associate. These changes shall not require an amendment to this Agreement.

**18.6.1 DHCS Program Contract Manager**

See the Scope of Work exhibit for Program Contract Manager information. If this Business Associate Agreement is not attached as an exhibit to a contract, contact the DHCS signatory to this Agreement.

**18.6.2 DHCS Privacy Office**

Privacy Office  
c/o: Office of HIPAA Compliance  
Department of Health Care Services  
P.O. Box 997413, MS 4722  
Sacramento, CA 95899-7413

Email: [incidents@dhcs.ca.gov](mailto:incidents@dhcs.ca.gov)

Telephone: (916) 445-4646

**18.6.3 DHCS Information Security Office**

Information Security Office  
DHCS Information Security Office  
P.O. Box 997413, MS 6400  
Sacramento, CA 95899-7413

Email: [incidents@dhcs.ca.gov](mailto:incidents@dhcs.ca.gov)

**19. Responsibility of DHCS**

DHCS agrees to not request the Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA and/or other applicable federal and/or state law.

**20. Audits, Inspection and Enforcement**

**20.1** From time to time, DHCS may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement. Business Associate shall promptly remedy any violation of this Agreement and shall certify the same to the DHCS Privacy Officer in writing. Whether

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or how DHCS exercises this provision shall not in any respect relieve Business Associate of its responsibility to comply with this Agreement.

- 20.2** If Business Associate is the subject of an audit, compliance review, investigation or any proceeding that is related to the performance of its obligations pursuant to this Agreement, or is the subject of any judicial or administrative proceeding alleging a violation of HIPAA, Business Associate shall promptly notify DHCS unless it is legally prohibited from doing so.

**21. Termination**

**21.1 Termination for Cause**

Upon DHCS' knowledge of a violation of this Agreement by Business Associate, DHCS may in its discretion:

- 21.1.1** Provide an opportunity for Business Associate to cure the violation and terminate this Agreement if Business Associate does not do so within the time specified by DHCS; or
- 21.1.2** Terminate this Agreement if Business Associate has violated a material term of this Agreement.

**21.2 Judicial or Administrative Proceedings**

DHCS may terminate this Agreement if Business Associate is found to have violated HIPAA, or stipulates or consents to any such conclusion, in any judicial or administrative proceeding.

**22. Miscellaneous Provisions**

**22.1 Disclaimer**

DHCS makes no warranty or representation that compliance by Business Associate with this Agreement will satisfy Business Associate's business needs or compliance obligations. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI and other confidential information.

**22.2 Amendment**

- 22.2.1** Any provision of this Agreement which is in conflict with current or future applicable Federal or State laws is hereby amended to conform to the provisions of those laws. Such amendment of this Agreement shall be effective on the effective date of the laws necessitating it, and shall be binding on the parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the parties.



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- 22.2.2** Failure by Business Associate to take necessary actions required by amendments to this Agreement under Section 22.2.1 shall constitute a material violation of this Agreement.

**22.3 Assistance in Litigation or Administrative Proceedings**

Business Associate shall make itself and its employees and agents available to DHCS at no cost to DHCS to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against DHCS, its directors, officers and/or employees based upon claimed violation of HIPAA, which involve inactions or actions by the Business Associate.

**22.4 No Third-Party Beneficiaries**

Nothing in this Agreement is intended to or shall confer, upon any third person any rights or remedies whatsoever.

**22.5 Interpretation**

The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA and other applicable laws.

**22.6 No Waiver of Obligations**

No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

**DEPARTMENT OF HEALTH CARE SERVICES**  
**Health Insurance Portability and Accountability Act**  
**(HIPAA)**  
**Business Associate Addendum**

**Attachment A**  
**Data Files**

The following data files will be provided pursuant to this Agreement:

**Local Governmental Agency (LGA)**

Each LGA will receive a list of beneficiaries who received County-Based Medi-Cal Administrative Activities (CMAA) from the LGA. The list may provide the following information, as necessary, for each beneficiary who received CMAA.

1. Social Security Number
2. Last Name
3. First Name
4. Middle Initial
5. Date Of Birth
6. Match Individual
7. Eligibility
8. Month of Eligibility
9. Currently a Medi-Cal beneficiary
10. Fee for Service or Managed Care beneficiary
11. Managed Care Organization (MCO) Name (Most recent MCO that beneficiary is/was enrolled in)
12. **Alternate Format Selection**

Pursuant to Public Contract Code section 2010, a person that submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a state agency with respect to any contract in the amount of \$100,000 or above shall certify, under penalty of perjury, at the time the bid or proposal is submitted or the contract is renewed, all of the following:

1. CALIFORNIA CIVIL RIGHTS LAWS: For contracts executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and
2. EMPLOYER DISCRIMINATORY POLICIES: For contracts executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

**CERTIFICATION**

I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

|                                          |                          |
|------------------------------------------|--------------------------|
| Proposer/Bidder Firm Name (Printed)      | Federal ID Number        |
| County of Napa                           | 94-6000525               |
| By (Authorized Signature)                |                          |
| Printed Name and Title of Person Signing |                          |
| Executed in the County of                | Executed in the State of |
| Napa                                     | CA                       |
| Date Executed                            |                          |

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# Contractor Certification Clause

CCC 04/2017

## CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

|                                       |                   |
|---------------------------------------|-------------------|
| Contractor/Bidder Firm Name (Printed) | Federal ID Number |
| County of Napa                        | 94-6000525        |

By (Authorized Signature)

Printed Name and Title of Person Signing

|               |                           |
|---------------|---------------------------|
| Date Executed | Executed in the County of |
|               | Napa                      |

## CONTRACTOR CERTIFICATION CLAUSES

### STATEMENT OF COMPLIANCE:

Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

### DRUG-FREE WORKPLACE REQUIREMENTS:

Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b) Establish a Drug-Free Awareness Program to inform employees about:
  1. the dangers of drug abuse in the workplace;
  2. the person's or organization's policy of maintaining a drug-free workplace;
  3. any available counseling, rehabilitation and employee assistance programs; and,

4. penalties that may be imposed upon employees for drug abuse violations.
- c) Provide that every employee who works on the proposed Agreement will:
1. receive a copy of the company's drug-free policy statement; and,
  2. agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

#### NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

#### CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT:

Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

#### EXPATRIATE CORPORATIONS:

Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

#### SWEATFREE CODE OF CONDUCT:

- a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in

whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations [website](#) and Public Contract Code Section 6108.

- b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

#### DOMESTIC PARTNERS:

For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

#### GENDER IDENTITY:

For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

#### DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

#### CONFLICT OF INTEREST:

Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

##### a) Current State Employees (PCC 10410):

1. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
2. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

##### b) Former State Employees (PCC 10411):

1. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-

making process relevant to the contract while employed in any capacity by any state agency.

2. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

#### LABOR CODE/WORKERS' COMPENSATION:

Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

#### AMERICANS WITH DISABILITIES ACT:

Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

#### CONTRACTOR NAME CHANGE:

An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

#### CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

- a) When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- b) "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
- c) Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good

standing by calling the Office of the Secretary of State.

#### RESOLUTION:

A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

#### AIR OR WATER POLLUTION VIOLATION:

Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

#### PAYEE DATA RECORD FORM STD. 204:

This form must be completed by all contractors that are not another state agency or other government entity.