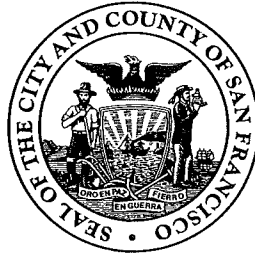


BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

### BUDGET AND FINANCE COMMITTEE

### SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Malia Cohen, Chair  
Budget and Finance Committee

FROM: Victor Young, Assistant Clerk

DATE: December 4, 2017

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, December 5, 2017

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting on Tuesday, December 5, 2017, at 2:00 p.m. This item was acted upon at the Committee Meeting on Thursday, November 30, 2017, at 10:00 a.m., by the votes indicated.

**Item No. 32**                      **File No. 171159**

Resolution retroactively authorizing the Department of Public Health, through Community Behavioral Health Services, to enter into Performance Contract No. 17-94549, between the California Department of Health Care Services and Community Behavioral Health Services, incorporating the Mental Health Services Act, Projects for Assistance in Transition from Homelessness, the Mental Health Plan, and Community Mental Health Services Grant for the period of July 1, 2017, through June 30, 2018.

#### **RECOMMENDED AS A COMMITTEE REPORT**

Vote: Supervisor Malia Cohen - Aye  
Supervisor Norman Yee - Aye  
Supervisor Katy Tang - Aye

c: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Jon Givner, Deputy City Attorney  
Alisa Somera, Legislative Deputy Director



File No. 171159

Committee Item No. 5

Board Item No. 32

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date November 30, 2017

Board of Supervisors Meeting

Date 12/5/17

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

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Completed by: Linda Wong Date November 14, 2017  
 Completed by: Linda Wong Date \_\_\_\_\_

1 [Performance Contract Agreement No. 17-94549 - California Department of Health Care  
2 Services - Community Behavioral Health Services - Mental Health Services Act and Various  
3 Programs]

4 **Resolution retroactively authorizing the Department of Public Health, through**  
5 **Community Behavioral Health Services, to enter into Performance Contract**  
6 **No. 17-94549, between the California Department of Health Care Services and**  
7 **Community Behavioral Health Services, incorporating the Mental Health Services Act,**  
8 **Projects for Assistance in Transition from Homelessness, the Mental Health Plan, and**  
9 **Community Mental Health Services Grant for the period of July 1, 2017, through June**  
10 **30, 2018.**

11  
12 WHEREAS, The California Department of Health Care Services (DHCS) administers  
13 funding for the Mental Health Services Act (MHSA), Projects for Assistance in Transition from  
14 Homelessness (PATH), the Mental Health Plan, and Community Mental Health Block Grant  
15 programs; and

16 WHEREAS, The Mental Health Plan was established pursuant to Welfare and  
17 Institutions Code, Section 14726 through 14712, direct the California Department of Health  
18 Care Services to implement and administer Managed Mental Health Care for Medi-Cal eligible  
19 residents of this state through contracts with mental health plans; and

20 WHEREAS, The Mental Health Services Fund was established pursuant to Welfare  
21 and Institutions Code, Section 5890, and provides funds to counties for the implementation of  
22 its MHSA programs for prevention and early intervention, community services and supports  
23 workforce development and training, innovation, plus capital facilities and technological  
24 needs; and

1           WHEREAS, Pursuant to United States Code, Title 42, Sections 290cc-21 through  
2 290cc-35; the PATH grant funds community based outreach, mental health and substance  
3 use disorder referral/treatment, case management and other support services, as well as a  
4 limited set of housing services for the homeless mentally ill; and

5           WHEREAS, DHCS awards federal Community Mental Health Block Grant funds to  
6 counties in California to provide services to the following target populations: children and  
7 youth with serious emotional disturbances, adults and older adults with serious mental  
8 illnesses; and

9           WHEREAS, The County's performance contract, a copy of which is on file with the  
10 Clerk of the Board of Supervisors in File No. 171159, as required by Welfare and Institutions  
11 Code, Sections 5650(a), 5847, and Title 9, California Code of Regulations, Section 3310, sets  
12 forth conditions and requirements the County must meet in order to receive this funding; now,  
13 therefore, be it

14           RESOLVED, That the Department of Public Health (DPH) is hereby retroactively  
15 authorized to enter into a performance contract agreement with DHCS; and, be it

16           FURTHER RESOLVED, That the Board of Supervisors hereby retroactively designates  
17 the Director of Community Behavioral Health Services to sign said agreement on behalf of  
18 DPH; and, be it

19           FURTHER RESOLVED, That within thirty (30) days of the performance contract being  
20 fully executed by all parties the Director of Community Behavioral Health Services shall  
21 provide the performance contract to the Clerk of the Board for inclusion into the official file.  
22  
23  
24  
25

STATE OF CALIFORNIA  
**STANDARD AGREEMENT**  
 STD 213\_DHCS (Rev. 09/14)

|                     |                              |
|---------------------|------------------------------|
| REGISTRATION NUMBER | AGREEMENT NUMBER<br>17-94549 |
|---------------------|------------------------------|

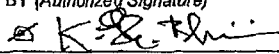

- This Agreement is entered into between the State Agency and the Contractor named below:  

|   |  |
|---|--|
| STATE AGENCY'S NAME<br>Department of Health Care Services               | (Also known as DHCS, CDHS, DHS or the State) |
| CONTRACTOR'S NAME<br>San Francisco Community Behavioral Health Services | (Also referred to as Contractor)             |
- The term of this Agreement is: July 1, 2017 through June 30, 2018
- The maximum amount of this Agreement is: \$ 0  
Zero dollars
- The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of this Agreement.

|  |             |
|--|-------------|
| Exhibit A – Program Specifications (including Special Terms and Conditions)  | 16 pages    |
| Exhibit A – Attachment I – Request for Waiver  | 1 page      |
| Exhibit B – Funds Provision  | 1 page      |
| Exhibit C * – General Terms and Conditions   | GTC 04/2017 |
| Exhibit D – Information Confidentiality and Security Requirements  | 7 pages     |
| Exhibit E – Privacy and Information Security Provisions (including Attachment A)   | 31 pages    |
| Exhibit E – Attachment B – Information Security Exchange Agreement between the Social Security Administration (SSA) and the California Department of Health Care Services (DHCS) | 101 pages   |

Items shown above with an Asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>.

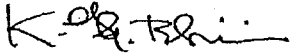
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

|   |                                       |   |
|---|---------------------------------------|---|
| <b>CONTRACTOR</b>   |                                       | California Department of<br>General Services Use Only           |
| CONTRACTOR'S NAME (if other than an Individual, state whether a corporation, partnership, etc.)<br>San Francisco Community Behavioral Health Services |                                       |   |
| BY (Authorized Signature)<br>                                      | DATE SIGNED (Do not type)<br>10/24/17 |   |
| PRINTED NAME AND TITLE OF PERSON SIGNING<br>Kavoo Ghanebassiri, MFT, Behavioral Health Director   |                                       |   |
| ADDRESS<br>1380 Howard Street 5 <sup>th</sup> Floor<br>San Francisco, CA 94103  |                                       |   |
| <b>STATE OF CALIFORNIA</b>  |                                       |   |
| AGENCY NAME<br>Department of Health Care Services   |                                       | <input checked="" type="checkbox"/> Exempt per: W&I Code §14703 |
| BY (Authorized Signature)<br>                                      | DATE SIGNED (Do not type)             |   |
| PRINTED NAME AND TITLE OF PERSON SIGNING<br>Don Rodriguez, Chief, Contract Management Unit  |                                       |   |
| ADDRESS<br>1501 Capitol Avenue, Suite 71.5195, MS 1403, P.O. Box 997413,<br>Sacramento, CA 95899-7413   |                                       |   |

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.

|   |  |                                       |
|---|--|---------------------------------------|
| <i>Contractor/Bidder Firm Name (Printed)</i><br>San Francisco Community Behavioral Health Services                    |  | <i>Federal ID Number</i><br>946000417 |
| <i>By (Authorized Signature)</i><br> |  |                                       |
| <i>Printed Name and Title of Person Signing</i><br>Kavos Ghanebassiri, MFT, Behavioral Health Director                |  |                                       |
| <i>Date Executed</i><br>10/24/17  | <i>Executed in the County of</i><br>San Francisco County |                                       |

**CONTRACTOR CERTIFICATION CLAUSES**

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. 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. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace 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: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. 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. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. 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 lessor 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.

5. 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.

6. 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 located at [www.dir.ca.gov](http://www.dir.ca.gov), 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).

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

8. **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.

1. **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.

**Current State Employees (Pub. Contract Code §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.

**Former State Employees (Pub. Contract Code §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. (Pub. Contract Code §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. (Pub. Contract Code §10430 (e))

2. 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)

3. 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.)

4. 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.

5. 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.

6. 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.

7. 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.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

**Exhibit A**  
**Program Specifications**

**1. Service Overview**

The California Department of Health Care Services (hereafter referred to as DHCS or Department) administers the Mental Health Services Act, Projects for Assistance in Transition from Homelessness (PATH) and Community Mental Health Services Grant (MHBG) programs and oversees county provision of community mental health services provided with realignment funds. Contractor (hereafter referred to as County in this Exhibit) must meet certain conditions and requirements to receive funding for these programs and community mental health services. This Agreement, which is County's performance contract, as required by Welfare and Institutions Code (Welf. & Inst. Code) sections 5650(a), 5651, 5666, 5897, and Title 9, California Code of Regulations (Cal. Code Regs.), Title 9, section 3310, sets forth conditions and requirements that County must meet in order to receive this funding. This Agreement does not cover federal financial participation or State general funds as they relate to Medi-Cal services provided through the Mental Health Plan Contracts. County agrees to comply with all of the conditions and requirements described herein.

DHCS shall monitor this Agreement to ensure compliance with applicable federal and State law and applicable regulations. (Gov. Code §§ 11180-11182; Welf. & Inst. Code §§ 5614, 5651, subd. (c), subd. (b) &, 14124.2, subd. (a).)

**2. Service Location**

The services shall be performed at appropriate sites as described in this contract.

**3. Service Hours**

The services shall be provided during times required by this contract.

**4. Project Representatives**

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

|  |   |
|--|---|
| <b>Department of Health Care Services</b><br>Contract Manager: Erika Cristo<br>Telephone: (916) 552-9055<br>Fax: (916) 440-7620<br>Email: <a href="mailto:Erika.Cristo@dhcs.ca.gov">Erika.Cristo@dhcs.ca.gov</a> | <b>San Francisco Community Behavioral Health Services</b><br>Contract Manager: Kavooos Ghanebassiri, MFT<br>Telephone: (415) 255-3440<br>Fax: (415) 255-3567<br>Email: <a href="mailto:Kavooos.GhaneBassiri@sfdph.org">Kavooos.GhaneBassiri@sfdph.org</a> |
|--|---|

B. Direct all inquiries to:

**Exhibit A**  
Program Specifications

|  |   |
|--|---|
| <b>Department of Health Care Services</b><br>Mental Health Services<br>Division/Program Policy Unit<br>Attention: Guy Stewart<br>1500 Capitol Avenue, MS 2702<br>P.O. Box Number 997413<br>Sacramento, CA, 95899-7413<br><br>Telephone: (916) 449-5997<br>Fax: (916) 440-7620<br>Email: <a href="mailto:Guy.Stewart@dhcs.ca.gov">Guy.Stewart@dhcs.ca.gov</a> | <b>San Francisco Community Behavioral Health Services</b><br>Attention: Kavoos Ghanebassiri, MFT<br>1380 Howard Street, 5 <sup>th</sup> Floor<br>San Francisco, CA 94103<br><br>Telephone: (415) 255-3440<br>Fax: (415) 255-3567<br>Email: <a href="mailto:Kavoos.GhaneBassiri@sfdph.org">Kavoos.GhaneBassiri@sfdph.org</a> |
|--|---|

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. General Requirements for Agreement**

Welfare and Institutions Code section 5651 provides specific assurances, which are listed below, that must be included in this Agreement. County shall:

- A. Comply with the expenditure requirements of Welfare and Institutions Code Section 17608.05,
- B. Provide services to persons receiving involuntary treatment as required by Part 1 (commencing with section 5000) and Part 1.5 (commencing with section 5585) of Division 5 of the Welfare and Institution Code,
- C. Comply with all of the requirements necessary for Medi-Cal reimbursement for mental health treatment services and case management programs provided to Medi-Cal eligible individuals, including, but not limited to, the provisions set forth in Chapter 3 (commencing with section 5700) of the Welfare and Institutions Code, and submit cost reports and other data to DHCS in the form and manner determined by the DHCS,
- D. Ensure that the Local Mental Health Advisory Board has reviewed and approved procedures ensuring citizen and professional involvement at all stages of the planning process pursuant to Welfare and Institutions Code section 5604.2,
- E. Comply with all provisions and requirements in law pertaining to patient rights,
- F. Comply with all requirements in federal law and regulation pertaining to federally funded mental health programs,
- G. Provide all data and information set forth in Sections 5610 and 5664 of the Welfare and Institutions Code,

**Exhibit A**  
Program Specifications

- H. If the County elects to provide the services described in Chapter 2.5 (commencing with Section 5670) of Division 5 of the Welfare and Institution Code, comply with guidelines established for program initiatives outlined in this chapter, and
- I. Comply with all applicable laws and regulations for all services delivered, including all laws, regulations, and guidelines of the Mental Health Services Act.

**6. Services Authority**

County shall adhere to the program principles and, to the extent funds are available, County shall provide the array of treatment options in accordance with Welfare and Institutions Code sections 5600.4 through 5600.7, inclusive.

**A. THE MENTAL HEALTH SERVICES ACT PROGRAM**

**1) Program Description**

Proposition 63, which created the Mental Health Services Act (MHSA), was approved by the voters of California on November 2, 2004. The Mental Health Services (MHS) Fund, which provides funds to counties for the implementation of its MHSA programs, was established pursuant to Welfare and Institutions Code section 5890. The MHSA was designed to expand California's public mental health programs and services through funding received by a one percent tax on personal incomes in excess of \$1 million. Counties use this funding for projects and programs for prevention and early intervention, community services and supports, workforce development and training, innovation, plus capital facilities and technological needs through mental health projects and programs. The State Controller distributes MHS Funds to the counties to plan for and provide mental health programs and other related activities outlined in a county's three-year program and expenditure plan or annual update. MHS Funds are distributed by the State Controller's Office to the counties on a monthly basis.

DHCS shall monitor County's use of MHS Funds to ensure that the county meets the MHSA and MHS Fund requirements. (Gov. Code §§ 11180-11182; Welf. & Inst. Code §§ 5651(c), 5897(d), 14124.2(a).)

**2) Issue Resolution Process**

County shall have an Issue Resolution Process (Process) to handle client disputes related to the provision of their mental health services. The Process shall be completed in an expedient and appropriate manner. County shall develop a log to record issues submitted as part of the Process. The log shall contain the date the issue was received; a brief synopsis of the issue; the final issue resolution outcome; and the date the final issue resolution was reached.

**3) Revenue and Expenditure Report**

**Exhibit A**  
**Program Specifications**

County shall submit its Revenue and Expenditure Report (RER) electronically to the Department and the Mental Health Services Oversight and Accountability Commission by December 31 following the close of the fiscal year in accordance with Welfare and Institutions Code sections 5705 and 5899, regulations and DHCS-issued guidelines. The RER shall be certified by the mental health director and the County's auditor-controller (or equivalent), using the DHCS-issued certification form. Data submitted shall be full and complete.

If County does not submit the RER by the required deadline, DHCS may withhold MHS funds until the reports are submitted or require the county to submit a corrective action plan with specific timelines. (Welf. & Inst. Code §§ 5897(e) and 5899(e); Cal. Code Regs., tit. 9, § 3510(c)) If the RER does not meet the requirements outlined above, DHCS may request a plan of correction with specific timelines. (Welf. & Inst. Code § 5897(e)) If the RER does not meet the requirements, in accordance with the procedure in paragraph 9, DHCS may withhold payments from the MHS Fund until the County submits a complete RER. (Welf. & Inst. Code §§ 5655, Cal. Code Regs., tit. 9 § 3510(c).)

4) Distribution and Use of Local Mental Health Services Funds:

- a. Welfare and Institutions Code section 5891(c) provides that commencing July 1, 2012, on or before the 15th day of each month, pursuant to a methodology provided by DHCS, the State Controller shall distribute to County's Local Mental Health Services Fund (MHS Fund) (established by County pursuant to Welfare & Institutions Code section 5892, subd. (f)) all unexpended and unreserved funds on deposit as of the last day of the prior month in the Mental Health Services Fund for the provision of specified programs and other related activities.
- b. County shall allocate the monthly Local MHS Fund in accordance with Welfare and Institutions Code section 5892 as follows:
  - i. Twenty percent of the funds shall be used for prevention and early intervention (PEI) programs in accordance with Welfare and Institutions Code section 5840. The expenditure for PEI may be increased by County if DHCS determines that the increase will decrease the need and cost for additional services to severely mentally ill persons in County by an amount at least commensurate with the proposed increase.
  - ii. The balance of funds shall be distributed to County's mental health programs for services to persons with severe mental illnesses pursuant to Part 4 of Division 5 of the Welfare and Institutions Code, (commencing with Section 5850), for the children's system of care and Part 3 of Division 5 of the Welfare and Institutions Code (commencing with Section 5800), for the adult and older adult system of care.
  - iii. Five percent of the total funding for the County's mental health programs established pursuant to Part 3 of Division 5 of the Welfare and Institutions

**Exhibit A**  
**Program Specifications**

Code (commencing with Section 5800), Part 3.6 of Division 5 of the Welfare and Institutions Code (commencing with Section 5840), and Part 4 of Division 5 of the Welfare and Institutions Code (commencing with Section 5850) shall be utilized for innovative programs in accordance with Welfare and Institutions Code sections 5830, 5847 and 5848.

- iv. Programs for services pursuant to Part 3 of Division 5 of the Welfare and Institutions Code (commencing with Section 5850) may include funds for technological needs and capital facilities, human resource needs, and a prudent reserve to ensure services do not have to be significantly reduced in years in which revenues are below the average of previous years. The total allocation for these purposes shall not exceed 20 percent of the average amount of funds allocated to County for the previous five years.
  - v. Allocations in Subparagraphs i. through iii. above, include funding for annual planning costs pursuant to Welfare and Institutions Code section 5848. The total of these costs shall not exceed five percent of the total annual revenues received for the Local MHS Fund. The planning costs shall include moneys for County's mental health programs to pay for the costs of having consumers, family members, and other stakeholders participate in the planning process and for the planning and implementation required for private provider contracts to be significantly expanded to provide additional services.
  - c. County shall use Local MHS Fund monies to pay for those portions of the mental health programs/services for children and adults for which there is no other source of funds available. (Welf. & Inst. Code §§ 5813.5, subd. (b), 5878.3 subd. (a); Cal. Code Regs., tit. 9 § 3610, subd. (d).)
  - d. County shall only use Local MHS Funds to expand mental health services. These funds shall not be used to supplant existing state or county funds utilized to provide mental health services. These funds shall only be used to pay for the programs authorized in Welfare and Institutions Code section 5892. These funds may not be used to pay for any other program and may not be loaned to County's general fund or any other County fund for any purpose. (Welf. & Inst. Code § 5891, subd. (a).)
  - e. All expenditures for County mental health programs shall be consistent with a currently approved three-year program and expenditure plan or annual update pursuant to Welfare and Institutions Code section 5847. (Welf. & Inst. Code § 5892, subd. (g).)
- 5) Three-Year Program and Expenditure Plan and Annual Updates:
- a. County shall prepare and submit a three-year program and expenditure plan, and annual updates, adopted by County's Board of Supervisors, to the Mental Health Services Oversight and Accountability Commission (MHSOAC) and DHCS within 30 calendar days after adoption. (Welf. & Inst. Code, § 5847 subd. (a).) The three-year program and expenditure plan and annual updates shall include all of the following:

**Exhibit A**  
**Program Specifications**

- i. A program for Prevention and Early Intervention (PEI) in accordance with Part 3.6 of Division 5 of the Welfare and Institutions Code (commencing with Section 5840). (Welf. & Inst. Code, § 5847, subd. (b)(1).)
- ii. A program for services to children in accordance with Part 4 of Division 5 of the Welfare and Institutions Code (commencing with Section 5850), to include a wraparound program pursuant to Chapter 4 of Part 6 of Division 9 of the Welfare and Institutions Code (commencing with Section 18250), or provide substantial evidence that it is not feasible to establish a wraparound program in the County. (Welf. & Inst. Code § 5847, subd. (b)(2).)
- iii. A program for services to adults and seniors in accordance with Part 3 of Division 5 of the Welfare and Institutions Code (commencing with Section 5800). (Welf. & Inst. Code § 5847, subd. (b)(3).)
- iv. A program for innovations in accordance with Part 3.2 of Division 5 of the Welfare and Institutions Code (commencing with Section 5830). (Welf. & Inst. Code § 5847, subd. (b)(4).) Counties shall expend funds for their innovation programs upon approval by the Mental Health Services Oversight and Accountability Commission. (Welf. & Inst. Code, § 5830, subd. (e).)
- v. A program for technological needs and capital facilities needed to provide services pursuant to Part 3 of Division 5 of the Welfare and Institutions Code (commencing with Section 5800), Part 3.6 of Division 5 of the Welfare and Institutions Code (commencing with Section 5840), and Part 4 of Division 5 of the Welfare and Institutions Code (commencing with Section 5850). All plans for proposed facilities with restrictive settings shall demonstrate that the needs of the people to be served cannot be met in a less restrictive or more integrated setting. (Welf. & Inst. Code, § 5847, subd. (b)(5).)
- vi. Identification of shortages in personnel to provide services pursuant to the above programs and the additional assistance needed from the education and training programs established pursuant to Part 3.1 of Division 5 of the Welfare and Institutions Code (commencing with Section 5820) and California Code of Regulations, Title 9, section 3830, subdivision(b). (Welf. & Inst. Code § 5847, subd. (b)(6).)
- vii. Establishment and maintenance of a prudent reserve to ensure the County program will continue to be able to serve children, adults, and seniors that it is currently serving pursuant to Part 3 of Division 5 of the Welfare and Institutions Code (commencing with Section 5800), Part 3.6 of Division 5 of the Welfare and Institutions Code (commencing with Section 5840), and Part 4 of Division 5 of the Welfare and Institutions Code (commencing with Section 5850), during years in which revenues for the MHS Fund are below recent



**Exhibit A**  
**Program Specifications**

averages adjusted by changes in the state population and the California Consumer Price Index. (Welf. & Inst. Code, § 5847, subd. (b)(7).)

viii. Certification by County's mental health director, which ensures that County has complied with all pertinent regulations, laws, and statutes of the MHSA, including stakeholder participation and non-supplantation requirements. (Welf. & Inst. Code, § 5847, subd. (b)(8).)

ix. Certification by County's Mental Health Director and County's Auditor-Controller that the County has complied with any fiscal accountability requirements as directed by DHCS, and that all expenditures are consistent with the requirements of the MHSA pursuant to California Code of Regulations, Title 9, sections 3500 and 3505. (Welf. & Inst. Code, § 5847, subd. (b)(9).)

b. County shall include services in the programs described in Subparagraphs 5.a.i. through 5.a.v., inclusive, to address the needs of transition age youth between the ages of 16 and 25 years old, including the needs of transition age foster youth. (Welf. & Inst. Code, § 5847, subd. (c).)

c. County shall prepare expenditure plans for the programs described in Subparagraphs 5.a.i. through 5.a.v., inclusive, and annual expenditure updates. Each expenditure plan update shall indicate the number of children, adults, and seniors to be served, and the cost per person. The expenditure update shall include utilization of unspent funds allocated in the previous year and the proposed expenditure for the same purpose. (Welf. & Inst. Code, § 5847, subd. (e).)

d. County's three-year program and expenditure plan and annual updates shall include reports on the achievement of performance outcomes for services provided pursuant to the Adult and Older Adult Mental Health System of Care Act, Prevention and Early Intervention, and the Children's Mental Health Services Act, which are funded by the MHS Fund and established jointly by DHCS and the MHSOAC, in collaboration with the California Mental Health Director's Association (Welf. & Inst. Code, § 5848, subd. (c).) County contracts with providers shall include the performance goals from the County's three-year program and expenditure plan and annual updates that apply to each provider's programs and services

e. County's three-year program and expenditure plan and annual update shall consider ways to provide services to adults and older adults that are similar to those established pursuant to the Mentally Ill Offender Crime Reduction Grant Program. Funds shall not be used to pay for persons incarcerated in state prison or parolees from state prisons. (Welf. & Inst. Code, § 5813.5, subd. (f).)

6) Planning Requirements and Stakeholder Involvement:

**Exhibit A**  
**Program Specifications**

- a. County shall develop its three-year program and expenditure plan and annual update with local stakeholders, including adults and seniors with severe mental illness, families of children, adults, and seniors with severe mental illness, providers of services, law enforcement agencies, education, social services agencies, veterans, representatives from veterans organizations, providers of alcohol and drug services, health care organizations, and other important interests. Counties shall demonstrate a partnership with constituents and stakeholders throughout the process that includes meaningful stakeholder involvement on mental health policy, program planning, and implementation, monitoring, quality improvement, evaluation, and budget allocations. County shall prepare and circulate a draft plan and update for review and comment for at least 30 calendar days to representatives of stakeholder interests and any interested party who has requested a copy of the draft plans. (Welf. & Inst. Code, § 5848, subd. (a); Cal. Code Regs., tit. 9, §§ 3300, 3310, 3315 & 3320.)
- b. County's mental health board, established pursuant to Welfare and Institutions Code, section 5604, shall conduct a public hearing on the County's draft three-year program and expenditure plan and annual updates at the close of the 30 calendar day comment period. Each adopted three-year program and expenditure plan or annual update shall summarize and analyze substantive recommendations and describe substantive changes to the three-year program and expenditure plan and annual updates. The County's mental health board shall review the adopted three-year program and expenditure plan and annual updates and recommend revisions to the County's mental health department. (Welf. & Inst. Code, § 5848, subd. (b); Cal. Code Regs., tit. 9, § 3315.)
- c. The County shall provide for a Community Planning Process as the basis for developing the Three-Year Program and Expenditure Plans and updates. The County shall designate positions and or units responsible for: the overall Community Program Planning Process; coordination and management of the Community Program Planning Process; ensuring stakeholders have the opportunity to participate; ensuring that stakeholders reflect the diversity of the demographics of the County; providing outreach to clients and their family members. The Community Program Planning process shall, at a minimum, include: involvement of clients and their family members in all aspects of the Process; participation of stakeholders; training, as needed, to County staff and stakeholders, clients, and family members regarding the stakeholder process. (Cal. Code Regs., tit. 9, § 3300.)
- d. The County shall adopt the following standards in planning, implementing, and evaluating the programs and/or services provided with MHSA funds; community collaboration, as defined in California Code of Regulations, Title 9, section 3200.060; cultural competence, as defined in section 3200.100; client driven, as defined in section 3200.050; family driven, as defined in section 3200.120; wellness, recovery and resilience focused; and integrated service experiences for clients and their families, as defined in section 3200.190. The planning, implementation and evaluation process includes, but is not limited to, the

**Exhibit A**  
**Program Specifications**

Community Program Planning Process; development of the Three-Year Program and Expenditure Plans and updates; and the manner in which the County delivers services and evaluates service delivery. (Cal. Code Regs., tit. 9, § 3320)

7) County Requirements for Handling MHSA Funds

- a. County shall place all funds received from the State MHS Fund into a Local MHS Fund. The Local MHS Fund balance shall be invested consistent with other County funds and the interest earned on the investments shall be transferred into the Local MHS Fund. (Welf. & Inst. Code, § 5892, subd. (f).)
- b. The earnings on investment of these funds shall be available for distribution from the fund in future years. (Welf. & Inst. Code, § 5892, subd. (f).)
- c. Other than funds placed in a reserve in accordance with an approved plan, any funds allocated to County which it has not spent for the authorized purpose within the three years shall revert to the State. County may retain MSHA Funds for capital facilities, technological needs, or education and training for up to 10 years before reverting to the State. (Welf. & Inst. Code, § 5892, subd. (h).)
- d. When accounting for all receipts and expenditures of MHSA funds, County must adhere to uniform accounting standards and procedures that conform to the Generally Accepted Accounting Principles (GAAP), as prescribed by the State Controller in California Code of Regulations, Title 2, division 2, chapter 2, subchapter 1, Accounting Procedures for Counties, sections 901-949, and a manual, which is currently entitled "Accounting Standards and Procedures for Counties" and available at [http://www.sco.ca.gov/pubs\\_guides.html](http://www.sco.ca.gov/pubs_guides.html). (Gov. Code, §30200.)

8) Department Compliance Investigations:

DHCS may investigate County's performance of the Mental Health Services Act related provisions of this Agreement and compliance with the provisions of the Mental Health Services Act, and relevant regulations. In conducting such an investigation DHCS may inspect and copy books, records, papers, accounts, documents and any writing as defined by Evidence Code Section 250 that is pertinent or material to the investigation of the County. For purposes of this Paragraph "provider" means any person or entity that provides services, goods, supplies or merchandise, which are directly or indirectly funded pursuant to MHSA. (Gov. Code §§ 11180, 11181, 11182; Welf. & Inst. Code §§ 5651, subd. (a)(9), 5897(d) 14124.2.)

9) County Breach, Plan of Correction and Withholding of State Mental Health Funds:

- a. If DHCS determines that County is out-of-compliance with the Mental Health Services Act related provisions of this Agreement, DHCS may request that

**Exhibit A**  
**Program Specifications**

County submit a plan of correction, including a specific timeline to correct the deficiencies, to DHCS. (Welf. & Inst. Code § 5897(d).)

- b. In accordance with Welfare and Institutions Code section 5655, if DHCS considers County to be substantially out-of-compliance with any provision of the Mental Health Services Act or relevant regulations, including all reporting requirements, the director shall order County to appear at a hearing before the Director or the Director's designee to show cause why the Department should not take administrative action. County shall be given at least twenty (20) days notice before the hearing.
- c. If the Director determines that there is or has been a failure, in a substantial manner, on the part of County to comply with any provision of the Welfare and Institutions Code or its implementing regulations, and that administrative sanctions are necessary, the Department may invoke any, or any combination of, the following sanctions Welfare and Institutions Code Section 5655:
  - 1) Withhold part or all state mental health funds from County.
  - 2) Require County to enter into negotiations with DHCS to agree on a plan for County to address County's non-compliance.
  - 3) Bring an action in mandamus or any other action in court as may be appropriate to compel compliance. Any action filed in accordance with the section shall be entitled to a preference in setting a date for hearing.

**B. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS (PATH) PROGRAM (42, U.S.C. §§, 290cc-21 -290cc-35, inclusive)**

Pursuant to Title 42 of the United States Code, sections 290cc-21 through 290cc-35, inclusive, the State of California has been awarded federal homeless funds through the federal McKinney Projects for Assistance in Transition from Homelessness (PATH) formula grant. The PATH grant funds community based outreach, mental health and substance abuse referral/treatment, case management and other support services, as well as a limited set of housing services for the homeless mentally ill.

County shall submit its Request for Application (RFA) responses and required documentation specified in DHCS' RFA to receive PATH funds. County shall complete its RFA responses in accordance with the instructions, enclosures and attachments available on the DHCS website at:

<http://www.dhcs.ca.gov/services/MH/Pages/PATH.aspx>.

If County applied for and DHCS approved its request to receive PATH grant funds, the RFA, County's RFA responses and required documentation, and DHCS' approval constitute provisions of this Agreement and are incorporated by reference herein. County shall comply with all provisions of the RFA and the County's RFA responses.

**Exhibit A**  
**Program Specifications**

**C. COMMUNITY MENTAL HEALTH SERVICES GRANT (MHBG) PROGRAM (42, U.S.C. § 300x-1 et seq.)**

Pursuant to Title 42, United States Code section 300x-1 et seq., the State of California has been awarded the federal Community Mental Health Services Block Grant funds (known as Mental Health Block Grant (MHBG)). County mental health agencies utilize MHBG funding to provide a broad array of mental health services within their mental health system of care (SOC) programs. These programs provide services to the following target populations: children and youth with serious emotional disturbances (SED) and adults and older adults with serious mental illnesses (SMI).

County shall submit its RFA responses and required documentation specified in DHCS' RFA to receive MHBG funding. County shall complete its RFA responses in accordance with the instructions, enclosures and attachments available on the DHCS website at:  
<http://www.dhcs.ca.gov/services/MH/Pages/MHBG.aspx>.

If County applied for and DHCS approved its request to receive MHBG grant funds, the RFA, County's RFA responses and required documentation, and DHCS' approval constitute provisions of this Agreement and are incorporated by reference herein. County shall comply with all provisions of the RFA and the County's RFA responses.

**7. Data Information and Submission Requirements**

County shall comply with all data and information submission requirements specified in this Agreement

- A. County shall provide all applicable data and information required by federal and/or State law in order to receive any funds to pay for its MHSA programs, PATH grant (if the County receives funds from this grant), MHBG grant (if the County receives funds from this grant), or county provision of community mental health services provided with 1991 realignment funds (other than Medi-Cal). These federal and State laws include, Title 42 of the United States Code, sections 290cc-21 through 290cc-35 and 300x through 300x-9, inclusive, Welfare & Institutions Code sections 5610 and 5664 and the regulations that implement, interpret or make specific, these federal and State laws and any DHCS-issued guidelines that relate to the programs or services.
- B. County shall comply with DHCS reporting requirements related to the County's receipt of federal or State funding for mental health programs. County shall submit complete and accurate information to DHCS, and as applicable the Mental Health Services Oversight and Accountability Commission, including, but not limited, to the following:

**Exhibit A**  
Program Specifications

- 1) Client and Service Information (CSI) System Data, as specified in Title 9 of the California Code of Regulations, section 3530.10 (See subparagraph c of this paragraph)
    - ii. MHSAs Quarterly Progress Reports, as specified in the California Code of Regulations, Title 9, section 3530.20. MHSAs Quarterly Progress Reports provide the actual number of clients served by MHSAs-funded program. Reports are submitted on a quarterly basis.
    - iii. Full Service Partnership Performance Outcome data, as specified in the California Code of Regulations, Title 9, section 3530.30.
    - iv. Consumer Perception Survey data, as specified in the California Code of Regulations, Title 9, section 3530.40.
    - v. The Annual Mental Health Services Act Revenue and Expenditure Report, as specified in Welfare and Institutions Code section 5899(a) and the California Code of Regulations, Title 9, sections 3510, 3510.010, and 3510.020 and DHCS-issued guidelines.
    - vi. Innovative Project Reports (annual, final and supplements), as specified in the California Code of Regulations, Title 9, sections 3580 through 3580.02.
    - vii. The Annual Prevention and Early Intervention report, as specified in the California Code of Regulations, Title 9, sections 3560 and 3560.010.
    - viii. Three Year Program and Evaluation Reports, as specified in the California Code of Regulations, Title 9, sections 3560 and 3560.020.
- C. County shall submit CSI data to DHCS, in accordance with Title 9 of the California Code of Regulations, section 3530.10, and according to the specifications set for in DHCS' CSI Data Dictionary, County shall:
- i. Report monthly CSI data to DHCS within 60 calendar days after the end of the month in which services were provided.
  - ii. Report within 60 calendar days or be in compliance with an approved plan of correction to the DHCS's CSI Unit.
  - iii. Make diligent efforts to minimize errors on the CSI error file.
  - iv. Notify DHCS 90 calendar days prior to any change in reporting system and/or change of automated system vendor.
- a. In the event that DHCS or County determines that, due to federal or state law changes or business requirements, an amendment is needed of either County's or DHCS' obligations under this contract relating to either DHCS' or County's

**Exhibit A**  
**Program Specifications**

information needs both DHCS and County agree to provide notice to the other party as soon as practicable prior to implementation. This notice shall include information and comments regarding the anticipated requirements and impacts of the projected changes. DHCS and County agree to meet and discuss the design, development, and costs of the anticipated changes prior to implementation.

- b. For all mental health funding sources received by County that require submission of a cost report, County shall submit a fiscal year-end cost report by December 31 following the close of the fiscal year in accordance with applicable federal and State law, regulations and DHCS-issued guidelines. (Welf. & Inst. Code § 5705; Cal. Code Regs., tit. 9, §§ 3500, 3505.) The cost report shall be certified as true and correct, and with respect to Mental Health Service Fund moneys, that the County is in compliance with the California Code of Regulations, Title 9, section 3410, Non-Supplant. The certification must be completed by the mental health director and one of the following: the County mental health departments chief financial officer (or equivalent), and individual who has delegated authority to sign for, and reports directly to the county mental health department's chief financial officer (or equivalent), or the county's auditor-controller (or equivalent). Data submitted shall be full and complete. The County shall also submit a reconciled cost report certified by the mental health director and the county's auditor-controller as being true and correct no later than 18 months after the close of the following fiscal year.
- c. If applicable to a specific federal or state funding source covered by this Agreement, County shall require each of its subcontractors to submit a fiscal year-end cost report to DHCS no later than December 31 following the close of the fiscal year, in accordance with applicable federal and state laws, regulations, and DHCS-issued guidelines.

**8. Special Terms and Conditions**

A. Audit and Record Retention

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

- 1) County and/or Subcontractor(s) shall maintain records, including books,, documents, and other evidence, accounting procedures and practices, sufficient to properly support 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 forgoing constitutes "records" for the purpose of this provision.
- 2) County'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.

**Exhibit A**  
**Program Specifications**

- 3) County 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 copy any records and supporting documentation pertaining to the performance of this Agreement. County 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, County agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement.
- 4) County and/or Subcontractor(s) shall preserve and make available his/her records (1) for a period of ten 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 (a) or (b) below.
  - a. 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.
  - b. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the ten-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 ten-year period, whichever is later.
- 5) County and/or Subcontractor(s) 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, County and/or Subcontractor(s) 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.
- 6) County shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in 2 Code of Regulations part 200.

**B. Dispute Resolution Process for Projects for Assistance in Transition from Homelessness Program Grant and Community Mental Health Services Grant Program**

If a dispute arises between the Contractor and DHCS regarding Contractor compliance with Section 6, of this Agreement, subsection B, Projects for Assistance in Transition from Homelessness Program or subsection C, Community Mental Health Services Grant Program, the Contractor must seek resolution using the process outlined below.



**Exhibit A**  
**Program Specifications**

- 1) The Contractor must first informally discuss the problem with the DHCS Project Representative listed in paragraph 3. If the parties are unable to resolve the problem informally, the Contractor must mail a written Statement of Dispute, with supporting evidence, to DHCS at the address listed in paragraph 3 below. The Statement of Dispute must describe the issues in dispute, the legal authority or other basis for the Contractor's position, and the remedy sought.
- 2) The Branch Chief of DHCS' Mental Health Management and Outcomes Reporting Branch will decide the dispute and mail a written decision to the Contractor within twenty (20) working days of receiving the Statement of Dispute from the Contractor. The decision will be in writing, resolve the dispute and include a statement of the reasons for the decision that addresses each issue raised by the Contractor. If applicable, the decision will also indicate any action Contractor must take to comply with the decision. The Branch Chief's decision shall be the final administrative determination of DHCS.
- 3) Unless otherwise agreed to in writing by DHCS, the Statement of Dispute, supporting documentation, and all correspondence and documents related to the dispute resolution process shall be directed to the following:

**Department of Health Care Services**  
Mental Health Services Division/Program Policy Unit  
Attention: Guy Stewart  
1500 Capitol Avenue, MS 2702  
P.O. Box Number 997413  
Sacramento, CA, 95899-7413

**C. Novation**

If County 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 County, 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.

**D. Laura's Law**

If County chooses to participate in the Assisted Outpatient Treatment program (AOT) Demonstration Project Act of 2002 it shall be required to comply with all applicable statutes including, but not limited to, Welfare and Institutions Code sections 5345 through 5349.5, inclusive. In addition, County shall submit to DHCS any documents that DHCS requests as part of its statutory responsibilities in accordance with DMH Letter No.: 03-01 dated March 20, 2003.

**E. Welfare and Institutions Code section 5751.7 Waiver**

**Exhibit A**  
Program Specifications

- 1) County shall comply with Welfare and Institutions Code section 5751.7 and ensure that minors are not admitted into inpatient psychiatric treatment with adults. If this requirement creates undue hardship to County due to inadequate or unavailable alternative resources, County may request a waiver of this requirement. County shall submit the waiver request on Attachment I of this Agreement, to DHCS.
- 2) DHCS shall review County's waiver request and provide a written notice of approval or denial of the waiver. If County's waiver request is denied, County shall prohibit health facilities from admitting minors into psychiatric treatment with adults.
- 3) County shall submit, the waiver request to DHCS at the time County submits this Agreement, signed by County, to DHCS for execution. County shall complete Attachment I, and attach it to this Agreement. See Exhibit A, Attachment I, entitled "Request For Waiver" of this Agreement for additional submission information.  
Execution of this Agreement by DHCS shall not constitute approval of a waiver submitted pursuant to this section.  
Any waiver granted in the prior fiscal year's Agreement shall be deemed to continue until either party chooses to discontinue it, as specified in Exhibit A, Attachment I. Execution of this Agreement shall continue independently of the waiver review and approval process.
- 4) In unusual or emergency circumstances, when County needs to request waivers after the annual Performance Contract has been executed, these requests should be sent immediately to: Licensing and Certification Section, Program Oversight and Compliance Branch, California Department of Health Care Services, P.O. Box 997413, MS 2800, Sacramento, CA 95899-7413, telephone: (916) 323-1864.
- 5) Each admission of a minor to a facility that has an approved waiver shall be reported to the Local Mental Health Director.

**F. Americans with Disabilities Act**

Contractor agrees to ensure that deliverables developed and produced, pursuant to this Agreement shall comply with the accessibility requirements of Section 508 of the Rehabilitation Act and the Americans with Disabilities Act of 1973 as amended (29 U.S.C. § 794 (d)), and regulations implementing that Act as set forth in Part 1194 of Title 36 of the Code of Federal Regulations. 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 section 11135 codifies section 508 of the Act requiring accessibility of electronic and information technology.

**Exhibit A, Attachment I**  
**Request for Waiver**

**Request for Waiver Pursuant To Section 5751.7 of the Welfare and Institutions Code**

\_\_\_\_\_ hereby requests a waiver for the following public or private health facilities pursuant to section 5751.7 of the Welfare and Institutions Code for the term of this contract. These are facilities where minors may be provided psychiatric treatment with nonspecific separate housing arrangements, treatment staff, and treatment programs designed to serve minors. However, no minor shall be admitted for psychiatric treatment into the same treatment ward as an adult receiving treatment who is in the custody of any jailor for a violent crime, is a known registered sex offender, or has a known history of, or exhibits inappropriate sexual or other violent behavior which would present a threat to the physical safety of others.

The request for waiver must include, as an attachment, the following:

1. A description of the hardship to the County/City due to inadequate or unavailable alternative resources that would be caused by compliance with the state policy regarding the provision of psychiatric treatment to minors.
2. The specific treatment protocols and administrative procedures established by the County/City for identifying and providing appropriate treatment to minors admitted with adults.
3. Name, address, and telephone number of the facility
  - Number of the facility's beds designated for involuntary treatment
  - Type of facility, license(s), and certification(s) held (including licensing and certifying agency and license and certificate number)
  - A copy of the facility's current license or certificate and description of the program, including target population and age groups to be admitted to the designated facility.
4. If applicable, the County Board of Supervisors' decision to designate a facility as a facility for evaluation and treatment pursuant to Welfare and Institutions Code sections 5150, 5585.50, and 5585.55.

To rescind the a waiver, either party shall send a letter to the other party on official letterhead signed by their respective Behavioral Health Director or his or her designee indicating that the party no longer grants or requests a waiver. If not otherwise specified by the party in the letter to the respective party, the discontinuance shall be effective the date the letter to the party is postmarked and the facility shall no longer be waived as of this date.

When the Department denies or rescinds a waiver issued to a County, the facility and the County Behavioral Health Director or designee shall receive written notification from the Department, by certified mail or e-mail. The notice shall include the decision, the basis for the decision, and any supporting documentation.



**Exhibit B  
Funds Provision**

**1. 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 San Francisco Community Behavioral Health Services or to furnish any other considerations under this Agreement and San Francisco Community Behavioral Health Services shall not be obligated to perform any provisions of this Agreement.
  
- B. If funding for any fiscal year 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 San Francisco Community Behavioral Health Services to reflect the reduced amount.



**Exhibit D**  
Information Confidentiality and Security Requirements

1. **Definitions.** For purposes of this Exhibit, the following definitions shall apply:
  - A. **Public Information:** Information that is not exempt from disclosure under the provisions of the California Public Records Act (Government Code sections 6250-6265) or other applicable state or federal laws.
  - B. **Confidential Information:** Information that is exempt from disclosure under the provisions of the California Public Records Act (Government Code sections 6250-6265) or other applicable state or federal laws.
  - C. **Sensitive Information:** Information that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive Information may be either Public Information or Confidential Information. It is information that requires a higher than normal assurance of accuracy and completeness. Thus, the key factor for Sensitive Information is that of integrity. Typically, Sensitive Information includes records of agency financial transactions and regulatory actions.
  - D. **Personal Information:** Information that identifies or describes an individual, including, but not limited to, their name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. **It is DHCS' policy to consider all information about individuals private unless such information is determined to be a public record.** This information must be protected from inappropriate access, use, or disclosure and must be made accessible to data subjects upon request. Personal Information includes the following:

Notice-triggering Personal Information: Specific items of personal information (name plus Social Security number, driver license/California identification card number, or financial account number) that may trigger a requirement to notify individuals if it is acquired by an unauthorized person. 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. See Civil Code sections 1798.29 and 1798.82.
2. **Nondisclosure.** The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure any Personal Information, Sensitive Information, or Confidential Information (hereinafter identified as PSCI).
3. The Contractor and its employees, agents, or subcontractors shall not use any PSCI for any purpose other than carrying out the Contractor's obligations under this Agreement.
4. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of any PSCI not emanating from the person who is the subject of PSCI.
5. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the person who is the subject of PSCI, any PSCI 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.

**Exhibit D**  
Information Confidentiality and Security Requirements

6. The Contractor shall observe the following requirements:

**A. Safeguards.** The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PSCI, including electronic PSCI that it creates, receives, maintains, uses, or transmits on behalf of DHCS. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, including at a minimum the following safeguards:

**1) Personnel Controls**

- a. **Employee Training.** All workforce members who assist in the performance of functions or activities on behalf of DHCS, or access or disclose DHCS PSCI, must complete information privacy and security training, at least annually, at Business Associate's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.
- b. **Employee Discipline.** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.
- c. **Confidentiality Statement.** All persons that will be working with DHCS PSCI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to DHCS PSCI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for DHCS inspection for a period of six (6) years following contract termination.
- d. **Background Check.** Before a member of the workforce may access DHCS PSCI, a thorough background check of that worker must be conducted, with evaluation of the results to assure that there is no indication that the worker may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

**2) Technical Security Controls**

- a. **Workstation/Laptop encryption.** All workstations and laptops that process and/or store DHCS PSCI must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the DHCS Information Security Office.
- b. **Server Security.** Servers containing unencrypted DHCS PSCI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.



**Exhibit D**  
Information Confidentiality and Security Requirements

- c. **Minimum Necessary.** Only the minimum necessary amount of DHCS PSCI required to perform necessary business functions may be copied, downloaded, or exported.
- d. **Removable media devices.** All electronic files that contain DHCS PSCI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, smartphones, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- e. **Antivirus software.** All workstations, laptops and other systems that process and/or store DHCS PSCI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- f. **Patch Management.** All workstations, laptops and other systems that process and/or store DHCS PSCI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- g. **User IDs and Password Controls.** All users must be issued a unique user name for accessing DHCS PSCI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z)
  - Lower case letters (a-z)
  - Arabic numerals (0-9)
  - Non-alphanumeric characters (punctuation symbols)
- h. **Data Destruction.** When no longer needed, all DHCS PSCI must be cleared, purged, or destroyed consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization such that the PSCI cannot be retrieved.
- i. **System Timeout.** The system providing access to DHCS PSCI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- j. **Warning Banners.** All systems providing access to DHCS PSCI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- k. **System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for DHCS PSCI, or which alters DHCS PSCI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If DHCS PSCI is

**Exhibit D**  
**Information Confidentiality and Security Requirements**

stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.

- l. Access Controls.** The system providing access to DHCS PSCI must use role based access controls for all user authentications, enforcing the principle of least privilege.
- m. Transmission encryption.** All data transmissions of DHCS PSCI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PSCI can be encrypted. This requirement pertains to any type of PSCI in motion such as website access, file transfer, and E-Mail.
- n. Intrusion Detection.** All systems involved in accessing, holding, transporting, and protecting DHCS PSCI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

**3) Audit Controls**

- a. System Security Review.** All systems processing and/or storing DHCS PSCI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
- b. Log Reviews.** All systems processing and/or storing DHCS PSCI must have a routine procedure in place to review system logs for unauthorized access.
- c. Change Control.** All systems processing and/or storing DHCS PSCI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

**4) Business Continuity / Disaster Recovery Controls**

- a. Emergency Mode Operation Plan.** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic DHCS PSCI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than 24 hours.
- b. Data Backup Plan.** Contractor must have established documented procedures to backup DHCS PSCI to maintain retrievable exact copies of DHCS PSCI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore DHCS PSCI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of DHCS data.

**5) Paper Document Controls**

- a. Supervision of Data.** DHCS PSCI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information.

**Exhibit D**  
**Information Confidentiality and Security Requirements**

- DHCS PSCI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- b. **Escorting Visitors.** Visitors to areas where DHCS PSCI is contained shall be escorted and DHCS PSCI shall be kept out of sight while visitors are in the area.
  - c. **Confidential Destruction.** DHCS PSCI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
  - d. **Removal of Data:** DHCS PSCI must not be removed from the premises of the Contractor except with express written permission of DHCS.
  - e. **Faxing.** Faxes containing DHCS PSCI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
  - f. **Mailing.** Mailings of DHCS PSCI shall be sealed and secured from damage or inappropriate viewing of PSCI to the extent possible. Mailings which include 500 or more individually identifiable records of DHCS PSCI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of DHCS to use another method is obtained.
- B. **Security Officer.** The Contractor shall designate a Security Officer to oversee its data security program who will be responsible for carrying out its privacy and security programs and for communicating on security matters with DHCS.

**Discovery and Notification of Breach. Notice to DHCS:**

- (1) To notify DHCS **immediately** upon the discovery of a suspected security incident that involves data provided to DHCS by the Social Security Administration. This notification will be by **telephone call plus email or fax** upon the discovery of the breach. (2) To notify DHCS **within 24 hours by email or fax** of the discovery of unsecured PSCI in electronic media or in any other media if the PSCI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, any suspected security incident, intrusion or unauthorized access, use or disclosure of PSCI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by the contractor as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of the contractor..

Notice shall be provided to the DHCS Program Contract Manager, the DHCS Privacy Officer and the DHCS Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves data provided to DHCS by the Social Security Administration, notice shall be provided by calling the DHCS EITS Service Desk. Notice shall be made using the "DHCS Privacy Incident Report" form, including all information known at the time. The contractor shall use the most current version of this form, which is posted on the DHCS Privacy Office website ([www.dhcs.ca.gov](http://www.dhcs.ca.gov), then select "Privacy" in the left column and then "Business Use" near the middle of the page) or use this link: <http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>

**Exhibit D**  
**Information Confidentiality and Security Requirements**

- C. Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PSCI, the Contractor shall take:
- 1) Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment and
  - 2) Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
- D. **Investigation of Breach.** The Contractor shall immediately investigate such security incident, breach, or unauthorized use or disclosure of PSCI. If the initial report did not include all of the requested information marked with an asterisk, then within seventy-two (72) hours of the discovery, The Contractor shall submit an updated "DHCS Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer:
- E. **Written Report.** The Contractor shall provide a written report of the investigation to the DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer, if all of the required information was not included in the DHCS Privacy Incident Report, within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure.
- F. **Notification of Individuals.** The Contractor shall notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and shall pay any costs of such notifications, as well as any costs associated with the breach. The DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer shall approve the time, manner and content of any such notifications.
7. **Affect on lower tier transactions.** The terms of this Exhibit shall apply to all contracts, subcontracts, and subawards, regardless of whether they are for the acquisition of services, goods, or commodities. The Contractor shall incorporate the contents of this Exhibit into each subcontract or subaward to its agents, subcontractors, or independent consultants.
8. **Contact Information.** To direct communications to the above referenced DHCS staff, the Contractor shall initiate contact as indicated herein. DHCS reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Exhibit or the Agreement to which it is incorporated.

|                               |                      |                                   |
|-------------------------------|----------------------|-----------------------------------|
| DHCS Program Contract Manager | DHCS Privacy Officer | DHCS Information Security Officer |
|-------------------------------|----------------------|-----------------------------------|

**Exhibit D**  
**Information Confidentiality and Security Requirements**

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|--|--|--|
| See the Scope of Work exhibit for Program Contract Manager information | Privacy Officer<br>c/o Office of Legal Services<br>Department of Health Care Services<br>P.O. Box 997413, MS 0011<br>Sacramento, CA 95899-7413<br><br>Email: <a href="mailto:privacyofficer@dhcs.ca.gov">privacyofficer@dhcs.ca.gov</a><br><br>Telephone: (916) 445-4646 | Information Security Officer<br>DHCS Information Security Office<br>P.O. Box 997413, MS 6400<br>Sacramento, CA 95899-7413<br><br>Email: <a href="mailto:iso@dhcs.ca.gov">iso@dhcs.ca.gov</a><br><br>Telephone: ITSD Help Desk<br>(916) 440-7000 or<br>(800) 579-0874 |
|--|--|--|

9. **Audits and Inspections.** From time to time, DHCS may inspect the facilities, systems, books and records of the Contractor to monitor compliance with the safeguards required in the Information Confidentiality and Security Requirements (ICSR) exhibit. Contractor shall promptly remedy any violation of any provision of this ICSR exhibit. The fact that DHCS inspects, or fails to inspect, or has the right to inspect, Contractor's facilities, systems and procedures does not relieve Contractor of its responsibility to comply with this ICSR exhibit.



**EXHIBIT E**

**PRIVACY AND INFORMATION SECURITY PROVISIONS**

This Exhibit E is intended to protect the privacy and security of specified Department information that Contractor may access, receive, or transmit under this Agreement. The Department information covered under this Exhibit E consists of: (1) Protected Health Information as defined under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA")(PHI); and (2) Personal Information (PI) as defined under the California Information Practices Act (CIPA), at California Civil Code Section 1798.3. Personal Information may include data provided to the Department by the Social Security Administration.

Exhibit E consists of the following parts:

1. Exhibit E-1, HIPAA Business Associate Addendum, which provides for the privacy and security of PHI.
2. Exhibit E-2, which provides for the privacy and security of PI in accordance with specified provisions of the Agreement between the Department and the Social Security Administration, known as the Information Exchange Agreement (IEA) and the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (Computer Agreement) to the extent Contractor access, receives, or transmits PI under these Agreements. Exhibit E-2 further provides for the privacy and security of PI under Civil Code Section 1798.3(a) and 1798.29.
3. Exhibit E-3, Miscellaneous Provision, sets forth additional terms and conditions that extend to the provisions of Exhibit E in its entirety.

**EXHIBIT E-1**

**HIPAA Business Associate Addendum**

**1. Recitals.**

- A. A business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), 42 U.S.C. Section 17921 et seq., and their implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations") between Department and Contractor arises only to the extent that Contractor creates, receives, maintains, transmits, uses or discloses PHI or ePHI on the Department's behalf, or provides services, arranges, performs or assists in the performance of functions or activities on behalf of the Department that are included in the definition of "business associate" in 45 C.F.R. 160.103 where the provision of the service involves the disclosure of PHI or ePHI from the Department, including but not limited to, utilization review, quality assurance, or benefit management. To the extent Contractor performs these services, functions, and activities on behalf of Department, Contractor is the Business Associate of the Department, acting on the Department's behalf. The Department and Contractor are each a party to this Agreement and are collectively referred to as the "parties."
- B. The Department wishes to disclose to Contractor certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under federal law, to be used or disclosed in the course of providing services and activities as set forth in Section 1.A. of Exhibit E-1 of this Agreement. This information is hereafter referred to as "Department PHI".
- C. The purpose of this Exhibit E-1 is to protect the privacy and security of the PHI and ePHI that may be created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations, including, but not limited to, the requirement that the Department must enter into a contract containing specific requirements with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 CFR Parts 160 and 164 and the HITECH



Act. To the extent that data is both PHI or ePHI and Personally Identifying Information, both Exhibit E-2 (including Attachment B, the SSA Agreement between SSA, CHHS and DHCS, referred to in Exhibit E-2) and this Exhibit E-1 shall apply.

- D. The terms used in this Exhibit E-1, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

## 2. Definitions.

- A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- D. Department PHI shall mean Protected Health Information or Electronic Protected Health Information, as defined below, accessed by Contractor in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities and services on behalf of the Department as specified in Section 1.A. of Exhibit E-1 of this Agreement. The terms PHI as used in this document shall mean Department PHI.
- E. Electronic Health Records shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921 and implementing regulations.
- F. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103.
- G. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual

or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR Section 160.103.

- H. Privacy Rule shall mean the HIPAA Regulations that are found at 45 CFR Parts 160 and 164, subparts A and E.
- I. Protected Health Information (PHI) means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR Section 160.103 and as defined under HIPAA.
- J. Required by law, as set forth under 45 CFR Section 164.103, means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.
- K. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.
- L. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of Department PHI, or confidential data utilized by Contractor to perform the services, functions and activities on behalf of Department as set forth in Section 1.A. of Exhibit E-1 of this Agreement; or interference with system operations in an information system that processes, maintains or stores Department PHI.
- M. Security Rule shall mean the HIPAA regulations that are found at 45 CFR Parts 160 and 164.
- N. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. Section 17932(h), any guidance issued by the Secretary pursuant to such Act and the HIPAA regulations.

### 3. Terms of Agreement.

**A. Permitted Uses and Disclosures of Department PHI by Contractor.**

Except as otherwise indicated in this Exhibit E-1, Contractor may use or disclose Department PHI only to perform functions, activities or services specified in Section 1.A of Exhibit E-1 of this Agreement, for, or on behalf of the Department, provided that such use or disclosure would not violate the HIPAA regulations or the limitations set forth in 42 CFR Part 2, or any other applicable law, if done by the Department. Any such use or disclosure, if not for purposes of treatment activities of a health care provider as defined by the Privacy Rule, must, to the extent practicable, be limited to the limited data set, as defined in 45 CFR Section 164.514(e)(2), or, if needed, to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, and the HIPAA regulations.

**B. Specific Use and Disclosure Provisions.** Except as otherwise indicated in this Exhibit E-1, Contractor may:

- 1) **Use and Disclose for Management and Administration.** Use and disclose Department PHI for the proper management and administration of the Contractor's business, provided that such disclosures are required by law, or the Contractor obtains reasonable assurances from the person to whom the information is disclosed, in accordance with section D(7) of this Exhibit E-1, that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware that the confidentiality of the information has been breached.
- 2) **Provision of Data Aggregation Services.** Use Department PHI to provide data aggregation services to the Department to the extent requested by the Department and agreed to by Contractor. Data aggregation means the combining of PHI created or received by the Contractor, as the Business Associate, on behalf of the Department with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of the Department

**C. Prohibited Uses and Disclosures**

- 1) Contractor shall not disclose Department PHI about an individual to a health plan for payment or health care operations purposes if the Department PHI pertains solely to a health care item or service for

which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 U.S.C. Section 17935(a) and 45 CFR Section 164.522(a).

- 2) Contractor shall not directly or indirectly receive remuneration in exchange for Department PHI.

#### D. Responsibilities of Contractor

Contractor agrees:

- 1) **Nondisclosure.** Not to use or disclose Department PHI other than as permitted or required by this Agreement or as required by law, including but not limited to 42 CFR Part 2.
- 2) **Compliance with the HIPAA Security Rule.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Department PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of the Department, in compliance with 45 CFR Sections 164.308, 164.310 and 164.312, and to prevent use or disclosure of Department PHI other than as provided for by this Agreement. Contractor shall implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications and other requirements of 45 CFR Section 164, subpart C, in compliance with 45 CFR Section 164.316. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, and which incorporates the requirements of section 3, Security, below. Contractor will provide the Department with its current and updated policies upon request.
- 3) **Security.** Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:
  - a. Complying with all of the data system security precautions listed in Attachment A, Data Security Requirements;
  - b. Achieving and maintaining compliance with the HIPAA Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of DHCS under this

Agreement; and

- c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III- Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies.
- 4) **Security Officer.** Contractor shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with the Department.
- 5) **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PHI by Contractor or its subcontractors in violation of the requirements of this Exhibit E.
- 6) **Reporting Unauthorized Use or Disclosure.** To report to Department any use or disclosure of Department PHI not provided for by this Exhibit E of which it becomes aware.
- 7) **Contractor's Agents and Subcontractors.**
  - a. To enter into written agreements with any agents, including subcontractors and vendors to whom Contractor provides Department PHI, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Contractor with respect to such Department PHI under this Exhibit E, and that require compliance with all applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI. As required by HIPAA, the HITECH Act and the HIPAA regulations, including 45 CFR Sections 164.308 and 164.314, Contractor shall incorporate, when applicable, the relevant provisions of this Exhibit E-1 into each subcontract or subaward to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI be reported to Contractor.
  - b. In accordance with 45 CFR Section 164.504(e)(1)(ii), upon

Contractor's knowledge of a material breach or violation by its subcontractor of the agreement between Contractor and the subcontractor, Contractor shall:

- i) Provide an opportunity for the subcontractor to cure the breach or end the violation and terminate the agreement if the subcontractor does not cure the breach or end the violation within the time specified by the Department; or
- ii) Immediately terminate the agreement if the subcontractor has breached a material term of the agreement and cure is not possible.

**8) Availability of Information to the Department and Individuals to Provide Access and Information:**

- a. To provide access as the Department may require, and in the time and manner designated by the Department (upon reasonable notice and during Contractor's normal business hours) to Department PHI in a Designated Record Set, to the Department (or, as directed by the Department), to an Individual, in accordance with 45 CFR Section 164.524. Designated Record Set means the group of records maintained for the Department health plan under this Agreement that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for the Department health plan for which Contractor is providing services under this Agreement; or those records used to make decisions about individuals on behalf of the Department. Contractor shall use the forms and processes developed by the Department for this purpose and shall respond to requests for access to records transmitted by the Department within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.
- b. If Contractor maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Contractor shall provide such information in an electronic format to enable the Department to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. Section 17935(e) and the HIPAA regulations.

- 9) **Amendment of Department PHI.** To make any amendment(s) to Department PHI that were requested by a patient and that the Department directs or agrees should be made to assure compliance with 45 CFR Section 164.526, in the time and manner designated by the Department, with the Contractor being given a minimum of twenty (20) days within which to make the amendment.
- 10) **Internal Practices.** To make Contractor's internal practices, books and records relating to the use and disclosure of Department PHI available to the Department or to the Secretary, for purposes of determining the Department's compliance with the HIPAA regulations. If any information needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Contractor, Contractor shall provide written notification to the Department and shall set forth the efforts it made to obtain the information.
- 11) **Documentation of Disclosures.** To document and make available to the Department or (at the direction of the Department) to an individual such disclosures of Department PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of such PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 CFR Section 164.528 and 42 U.S.C. Section 17935(c). If Contractor maintains electronic health records for the Department as of January 1, 2009 and later, Contractor must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting.
- 12) **Breaches and Security Incidents.** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:
  - a. **Initial Notice to the Department.** (1) To notify the Department **immediately by telephone call or email or fax** upon the discovery of a breach of unsecured PHI in electronic media or in any other media if the PHI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person. (2) To notify the Department **within 24 hours (one hour if SSA data) by email or fax** of

the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement or this Exhibit E-1, or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Contractor as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Contractor.

Notice shall be provided to the Information Protection Unit, Office of HIPAA Compliance. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notice shall be provided by calling the Information Protection Unit (916.445.4646, 866-866-0602) or by emailing [privacyofficer@dhcs.ca.gov](mailto:privacyofficer@dhcs.ca.gov). Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time. Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Officer website ([www.dhcs.ca.gov](http://www.dhcs.ca.gov); then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link:  
<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>

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

- i) Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and
  - ii) Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
- b. **Investigation and Investigation Report.** To immediately investigate such suspected security incident, security incident, breach, or unauthorized access, use or disclosure of PHI. Within 72 hours of the discovery, Contractor shall submit an updated "Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the



form, to the extent known at that time, to the Information Protection Unit.

- c. **Complete Report.** To provide a complete report of the investigation to the Department Program Contract Manager and the Information Protection Unit within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, and the HIPAA regulations. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten (10) working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and whether individual notifications and a corrective action plan are required.
- d. **Responsibility for Reporting of Breaches.** If the cause of a breach of Department PHI is attributable to Contractor or its agents, subcontractors or vendors, Contractor is responsible for all required reporting of the breach as specified in 42 U.S.C. section 17932 and its implementing regulations, including notification to media outlets and to the Secretary (after obtaining prior written approval of DHCS). If a breach of unsecured Department PHI involves more than 500 residents of the State of California or under its jurisdiction, Contractor shall first notify DHCS, then the Secretary of the breach immediately upon discovery of the breach. If a breach involves more than 500 California residents, Contractor shall also provide, after obtaining written prior approval of DHCS, notice to the Attorney General for the State of California,

Privacy Enforcement Section. If Contractor has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.

- e. **Responsibility for Notification of Affected Individuals.** If the cause of a breach of Department PHI is attributable to Contractor or its agents, subcontractors or vendors and notification of the affected individuals is required under state or federal law, Contractor shall bear all costs of such notifications as well as any costs associated with the breach. In addition, the Department reserves the right to require Contractor to notify such affected individuals, which notifications shall comply with the requirements set forth in 42U.S.C. section 17932 and its implementing regulations, including, but not limited to, the requirement that the notifications be made without unreasonable delay and in no event later than 60 calendar days after discovery of the breach. The Department Privacy Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made. The Department will provide its review and approval expeditiously and without unreasonable delay.
- f. **Department Contact Information.** To direct communications to the above referenced Department staff, the Contractor shall initiate contact as indicated herein. The Department reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

|  |                             |  |
|--|-----------------------------|--|
| <b>Department<br/>Program Contract<br/>Manager</b> | <b>DHCS Privacy Officer</b> | <b>DHCS Information Security<br/>Officer</b> |
|--|-----------------------------|--|

|  |   |   |
|--|---|---|
| <p>See the Exhibit A, Scope of Work for Program Contract Manager information</p> | <p>Information Protection Unit<br/>c/o: Office of HIPAA<br/>Compliance Department of<br/>Health Care Services<br/>P.O. Box 997413, MS 4722<br/>Sacramento, CA 95899-7413<br/>(916) 445-4646; (866) 866-0602</p> <p>Email:<br/><a href="mailto:privacyofficer@dhcs.ca.gov">privacyofficer@dhcs.ca.gov</a></p> <p>Fax: (916) 440-7680</p> | <p>Information Security Officer<br/>DHCS Information Security Office<br/>P.O. Box 997413, MS 6400<br/>Sacramento, CA 95899-7413</p> <p>Email: <a href="mailto:iso@dhcs.ca.gov">iso@dhcs.ca.gov</a></p> <p>Telephone: ITSD Service Desk (916)<br/>440-7000; (800) 579-0874</p> <p>Fax: (916)440-5537</p> |
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- 13) **Termination of Agreement.** In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Contractor knows of a material breach or violation by the Department of this Exhibit E-1, it shall take the following steps:
- a. Provide an opportunity for the Department to cure the breach or end the violation and terminate the Agreement if the Department does not cure the breach or end the violation within the time specified by Contractor; or
  - b. Immediately terminate the Agreement if the Department has breached a material term of the Exhibit E-1 and cure is not possible.
- 14) **Sanctions and/or Penalties.** Contractor understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Contractors may result in the imposition of sanctions and/or penalties on Contractor under HIPAA, the HITECH Act and the HIPAA regulations.

**E. Obligations of the Department.**

The Department agrees to:

- 1) **Permission by Individuals for Use and Disclosure of PHI.** Provide the Contractor with any changes in, or revocation of, permission by an Individual to use or disclose Department PHI, if such changes affect the Contractor's permitted or required uses and disclosures.
- 2) **Notification of Restrictions.** Notify the Contractor of any restriction to

the use or disclosure of Department PHI that the Department has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect the Contractor's use or disclosure of PHI.

- 3) **Requests Conflicting with HIPAA Rules.** Not request the Contractor to use or disclose Department PHI in any manner that would not be permissible under the HIPAA regulations if done by the Department.
- 4) **Notice of Privacy Practices.** Provide Contractor with the web link to the Notice of Privacy Practices that DHCS produces in accordance with 45 CFR Section 164.520, as well as any changes to such notice. Visit the DHCS website to view the most current Notice of Privacy Practices at:  
<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/NoticeofPrivacyPractices.aspx> or the DHCS website at [www.dhcs.ca.gov](http://www.dhcs.ca.gov) (select "Privacy in the right column and "Notice of Privacy Practices" on the right side of the page).

#### F. Audits, Inspection and Enforcement

If Contractor is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office for Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Exhibit E-1, Contractor shall immediately notify the Department. Upon request from the Department, Contractor shall provide the Department with a copy of any Department PHI that Contractor, as the Business Associate, provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI to the Secretary. Contractor is responsible for any civil penalties assessed due to an audit or investigation of Contractor, in accordance with 42 U.S.C. Section 17934(c).

#### G. Termination.

- 1) **Term.** The Term of this Exhibit E-1 shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 CFR Section 164.504(e)(2)(ii)(J).
- 2) **Termination for Cause.** In accordance with 45 CFR Section 164.504(e)(1)(iii), upon the Department's knowledge of a material breach or violation of this Exhibit E-1 by Contractor, the Department shall:
  - a. Provide an opportunity for Contractor to cure the breach or

end the violation and terminate this Agreement if Contractor does not cure the breach or end the violation within the time specified by the Department; or

- b. Immediately terminate this Agreement if Contractor has breached a material term of this Exhibit E-1 and cure is not possible.

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**EXHIBIT E-2**

**Privacy and Security of Personal Information and Personally Identifiable Information Not Subject to HIPAA**

**1. Recitals.**

- A. In addition to the Privacy and Security Rules under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) the Department is subject to various other legal and contractual requirements with respect to the personal information (PI) and personally identifiable information (PII) it maintains. These include:
- 1) The California Information Practices Act of 1977 (California Civil Code §§1798 et seq.),
  - 2) The Agreement between the Social Security Administration (SSA) and the Department, known as the Information Exchange Agreement (IEA), which incorporates the Computer Matching and Privacy Protection Act Agreement (CMPPA) between the SSA and the California Health and Human Services Agency. The IEA, including the CMPPA is attached to this Exhibit E as Attachment B and is hereby incorporated in this Agreement.
  - 3) Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2.
- B. The purpose of this Exhibit E-2 is to set forth Contractor's privacy and security obligations with respect to PI and PII that Contractor may create, receive, maintain, use, or disclose for or on behalf of Department pursuant to this Agreement. Specifically this Exhibit applies to PI and PII which is not Protected Health Information (PHI) as defined by HIPAA and therefore is not addressed in Exhibit E-1 of this Agreement, the HIPAA Business Associate Addendum; however, to the extent that data is both PHI or ePHI and PII, both Exhibit E-1 and this Exhibit E-2 shall apply.
- C. The IEA Agreement referenced in A.2) above requires the Department to extend its substantive privacy and security terms to subcontractors who receive data provided to DHCS by the Social Security Administration. If Contractor receives data from DHCS that includes data provided to DHCS by the Social Security Administration, Contractor must comply with the following specific sections of the IEA Agreement: E. Security Procedures, F. Contractor/Agent Responsibilities, and G. Safeguarding and Reporting Responsibilities for Personally Identifiable Information ("PII"), and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local

Agencies Exchanging Electronic Information with the Social Security Administration. Contractor must also ensure that any agents, including a subcontractor, to whom it provides DHCS data that includes data provided by the Social Security Administration, agree to the same requirements for privacy and security safeguards for such confidential data that apply to Contractor with respect to such information.

- D. The terms used in this Exhibit E-2, but not otherwise defined, shall have the same meanings as those terms have in the above referenced statute and Agreement. Any reference to statutory, regulatory, or contractual language shall be to such language as in effect or as amended.

## 2. Definitions.

- A. "Breach" shall have the meaning given to such term under the IEA and CMPPA. It shall include a "PII loss" as that term is defined in the CMPPA.
- B. "Breach of the security of the system" shall have the meaning given to such term under the California Information Practices Act, Civil Code section 1798.29(f).
- C. "CMPPA Agreement" means the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (CHHS).
- D. "Department PI" shall mean Personal Information, as defined below, accessed in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities and services specified in this Agreement on behalf of the Department.
- E. "IEA" shall mean the Information Exchange Agreement currently in effect between the Social Security Administration (SSA) and the California Department of Health Care Services (DHCS).
- F. "Notice-triggering Personal Information" shall mean the personal information identified in Civil Code section 1798.29 whose unauthorized access may trigger notification requirements under Civil Code section 1798.29. For purposes of this provision, identify shall include, but not be limited to, name, address, email address, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, a photograph or a biometric identifier. Notice-triggering Personal Information includes PI in electronic, paper or any other medium.
- G. "Personally Identifiable Information" (PII) shall have the meaning given to such term in the IEA and CMPPA.

- H. "Personal Information" (PI) shall have the meaning given to such term in California Civil Code Section 1798.3(a).
- I. "Required by law" means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.
- J. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PI, or confidential data utilized in complying with this Agreement; or interference with system operations in an information system that processes, maintains or stores PI.

### 3. Terms of Agreement

#### A. Permitted Uses and Disclosures of Department PI and PII by Contractor

Except as otherwise indicated in this Exhibit E-2, Contractor may use or disclose Department PI only to perform functions, activities or services for or on behalf of the Department pursuant to the terms of this Agreement provided that such use or disclosure would not violate the California Information Practices Act (CIPA) if done by the Department.

#### B. Responsibilities of Contractor

Contractor agrees:

- 1) **Nondisclosure.** Not to use or disclose Department PI or PII other than as permitted or required by this Agreement or as required by applicable state and federal law.
- 2) **Safeguards.** To implement appropriate and reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of Department PI and PII, to protect against anticipated threats or hazards to the security or



integrity of Department PI and PII, and to prevent use or disclosure of Department PI or PII other than as provided for by this Agreement. Contractor shall develop and maintain a written information privacy and security program that include administrative, technical and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities, which incorporate the requirements of section 3, Security, below. Contractor will provide DHCS with its current policies upon request.

- 3) **Security.** Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:
- a. Complying with all of the data system security precautions listed in Attachment A, Business Associate Data Security Requirements;
  - b. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III- Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies; and
  - c. If the data obtained by Contractor from DHCS includes PII, Contractor shall also comply with the substantive privacy and security requirements in the Computer Matching and Privacy Protection Act Agreement between the SSA and the California Health and Human Services Agency (CHHS) and in the Agreement between the SSA and DHCS, known as the Information Exchange Agreement, which are attached as Attachment B and incorporated into this Agreement. The specific sections of the IEA with substantive privacy and security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA. Contractor also agrees to ensure that any agents, including a subcontractor to whom it provides DHCS PII, agree to the same requirements for privacy and security safeguards for confidential data that apply to Contractor with respect to such information.

- 4) **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PI or PII by Contractor or its subcontractors in violation of this Exhibit E-2.
- 5) **Contractor's Agents and Subcontractors.** To impose the same restrictions and conditions set forth in this Exhibit E-2 on any subcontractors or other agents with whom Contractor subcontracts any activities under this Agreement that involve the disclosure of Department PI or PII to the subcontractor.
- 6) **Availability of Information to DHCS.** To make Department PI and PII available to the Department for purposes of oversight, inspection, amendment, and response to requests for records, injunctions, judgments, and orders for production of Department PI and PII. If Contractor receives Department PII, upon request by DHCS, Contractor shall provide DHCS with a list of all employees, contractors and agents who have access to Department PII, including employees, contractors and agents of its subcontractors and agents.
- 7) **Cooperation with DHCS.** With respect to Department PI, to cooperate with and assist the Department to the extent necessary to ensure the Department's compliance with the applicable terms of the CIPA including, but not limited to, accounting of disclosures of Department PI, correction of errors in Department PI, production of Department PI, disclosure of a security breach involving Department PI and notice of such breach to the affected individual(s).
- 8) **Confidentiality of Alcohol and Drug Abuse Patient Records.** Contractor agrees to comply with all confidentiality requirements set forth in Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2. Contractor is aware that criminal penalties may be imposed for a violation of these confidentiality requirements.
- 9) **Breaches and Security Incidents.** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:
  - a. **Initial Notice to the Department.** (1) To notify the Department **immediately by telephone call or email or fax** upon the discovery of a breach of unsecured Department PI or PII in electronic media or in any other media if the PI or PII was, or is reasonably believed to have been, accessed or acquired

by an unauthorized person, or upon discovery of a suspected security incident involving Department PII. (2) To notify the Department **within one (1) hour by email or fax** if the data is data subject to the SSA Agreement; and **within 24 hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of Department PI or PII in violation of this Agreement or this Exhibit E-1 or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Contractor as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Contractor.

- b. Notice shall be provided to the Information Protection Unit, Office of HIPAA Compliance. If the incident occurs after business hours or on a weekend or holiday and involves electronic Department PI or PII, notice shall be provided by calling the Department Information Security Officer. Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time. Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Officer website ([www.dhcs.ca.gov](http://www.dhcs.ca.gov), then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link:  
<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx> .
- c. Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of Department PI or PII, Contractor shall take:
  - i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and
  - ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
- d. **Investigation and Investigation Report.** To immediately investigate such suspected security incident, security incident, breach, or unauthorized access, use or disclosure of

PHI. Within 72 hours of the discovery, Contractor shall submit an updated "Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the Department Information Security Officer.

- e. **Complete Report.** To provide a complete report of the investigation to the Department Program Contract Manager and the Information Protection Unit within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten (10) working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and whether individual notifications and a corrective action plan are required.
- f. **Responsibility for Reporting of Breaches.** If the cause of a breach of Department PI or PII is attributable to Contractor or its agents, subcontractors or vendors, Contractor is responsible for all required reporting of the breach as specified in CIPA, section 1798.29 and as may be required under the IEA. Contractor shall bear all costs of required notifications to individuals as well as any costs associated with the breach. The Privacy Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made. The Department will provide its review and approval expeditiously and without unreasonable delay.

- g. If Contractor has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.
  
- h. **Department Contact Information.** To direct communications to the above referenced Department staff, the Contractor shall initiate contact as indicated herein. The Department reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

| <b>Department Program Contract</b>  | <b>DHCS Privacy Officer</b>  | <b>DHCS Information Security Officer</b>   |
|---|--|--|
| See the Exhibit A, Scope of Work for Program Contract Manager information | Information Protection Unit<br>c/o: Office of HIPAA<br>Compliance Department of Health Care Services<br>P.O. Box 997413, MS 4722<br>Sacramento, CA 95899-7413<br>(916) 445-4646<br>Email:<br><u><a href="mailto:privacyofficer@dhcs.ca.gov">privacyofficer@dhcs.ca.gov</a></u><br>Telephone:(916) 445-4646 | Information Security Officer<br>DHCS Information Security Office<br>P.O. Box 997413, MS 6400<br>Sacramento, CA 95899-7413<br>Email: <u><a href="mailto:iso@dhcs.ca.gov">iso@dhcs.ca.gov</a></u><br>Telephone: ITSD Service Desk<br>(916) 440-7000 or<br>(800) 579-0874 |

**10) Designation of Individual Responsible for Security**

Contractor shall designate an individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for carrying out the requirements of this Exhibit E-2 and for communicating on security matters with the Department.

### EXHIBIT E-3

#### Miscellaneous Terms and Conditions

##### Applicable to Exhibit E

- 1) **Disclaimer.** The Department makes no warranty or representation that compliance by Contractor with this Exhibit E, HIPAA or the HIPAA regulations will be adequate or satisfactory for Contractor's own purposes or that any information in Contractor's possession or control, or transmitted or received by Contractor, is or will be secure from unauthorized use or disclosure. Contractor is solely responsible for all decisions made by Contractor regarding the safeguarding of the Department PHI, PI and PII.
  
- 2) **Amendment.** The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Exhibit E may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations, and other applicable state and federal laws. Upon either party's request, the other party agrees to promptly enter into negotiations concerning an amendment to this Exhibit E embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations, and other applicable state and federal laws. The Department may terminate this Agreement upon thirty (30) days written notice in the event:
  - a) Contractor does not promptly enter into negotiations to amend this Exhibit E when requested by the Department pursuant to this section; or
  - b) Contractor does not enter into an amendment providing assurances regarding the safeguarding of Department PHI that the Department deems is necessary to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
  
- 3) **Judicial or Administrative Proceedings.** Contractor will notify the Department if it is named as a defendant in a criminal proceeding for a violation of HIPAA or other security or privacy law. The Department may terminate this Agreement if Contractor is found guilty of a criminal violation of HIPAA. The Department may terminate this Agreement if a finding or stipulation that the Contractor has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Contractor is a party or has been joined. DHCS will consider the nature and seriousness of the

- violation in deciding whether or not to terminate the Agreement.
- 4) **Assistance in Litigation or Administrative Proceedings.** Contractor shall make itself and any subcontractors, employees or agents assisting Contractor in the performance of its obligations under this Agreement, available to the Department at no cost to the Department to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Department, its directors, officers or employees based upon claimed violation of HIPAA, or the HIPAA regulations, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, employee or agent is a named adverse party.
  - 5) **No Third-Party Beneficiaries.** Nothing express or implied in the terms and conditions of this Exhibit E is intended to confer, nor shall anything herein confer, upon any person other than the Department or Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.
  - 6) **Interpretation.** The terms and conditions in this Exhibit E shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, and the HIPAA regulations. The parties agree that any ambiguity in the terms and conditions of this Exhibit E shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations, and, if applicable, any other relevant state and federal laws.
  - 7) **Conflict.** In case of a conflict between any applicable privacy or security rules, laws, regulations or standards the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI, PI and PII from unauthorized disclosure. Further, Contractor must comply within a reasonable period of time with changes to these standards that occur after the effective date of this Agreement.
  - 8) **Regulatory References.** A reference in the terms and conditions of this Exhibit E to a section in the HIPAA regulations means the section as in effect or as amended.
  - 9) **Survival.** The respective rights and obligations of Contractor under Section 3, Item D of Exhibit E-1, and Section 3, Item B of Exhibit E-2, Responsibilities of Contractor, shall survive the termination or expiration of this Agreement.
  - 10) **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.

- 11) **Audits, Inspection and Enforcement.** From time to time, and subject to all applicable federal and state privacy and security laws and regulations, the Department may conduct a reasonable inspection of the facilities, systems, books and records of Contractor to monitor compliance with this Exhibit E. Contractor shall promptly remedy any violation of any provision of this Exhibit E. The fact that the Department inspects, or fails to inspect, or has the right to inspect, Contractor's facilities, systems and procedures does not relieve Contractor of its responsibility to comply with this Exhibit E. The Department's failure to detect a non-compliant practice, or a failure to report a detected non-compliant practice to Contractor does not constitute acceptance of such practice or a waiver of the Department's enforcement rights under this Agreement, including this Exhibit E.
- 12) **Due Diligence.** Contractor shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Exhibit E and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and other applicable state and federal law, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this Exhibit E.
- 13) **Term.** The Term of this Exhibit E-1 shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 CFR Section 164.504(e)(2)(ii)(I), and when all Department PI and PII is destroyed in accordance with Attachment A.
- 14) **Effect of Termination.** Upon termination or expiration of this Agreement for any reason, Contractor shall return or destroy all Department PHI, PI and PII that Contractor still maintains in any form, and shall retain no copies of such PHI, PI or PII. If return or destruction is not feasible, Contractor shall notify the Department of the conditions that make the return or destruction infeasible, and the Department and Contractor shall determine the terms and conditions under which Contractor may retain the PHI, PI or PII. Contractor shall continue to extend the protections of this Exhibit E to such Department PHI, PI and PII, and shall limit further use of such data to those purposes that make the return or destruction of such data infeasible. This provision shall apply to Department PHI, PI and PII that is in the possession of subcontractors or agents of Contractor.



**Attachment A**  
**Data Security Requirements**

**1. Personnel Controls**

- A. **Employee Training.** All workforce members who assist in the performance of functions or activities on behalf of the Department, or access or disclose Department PHI or PI must complete information privacy and security training, at least annually, at Contractor's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following termination of this Agreement.
- B. **Employee Discipline.** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.
- C. **Confidentiality Statement.** All persons that will be working with Department PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to Department PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for Department inspection for a period of six (6) years following termination of this Agreement.
- D. **Background Check.** Before a member of the workforce may access Department PHI or PI, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years.

**2. Technical Security Controls**

- A. **Workstation/Laptop encryption.** All workstations and laptops that store Department PHI or PI either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as

Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the Department Information Security Office.

- B. **Server Security.** Servers containing unencrypted Department PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- C. **Minimum Necessary.** Only the minimum necessary amount of Department PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- D. **Removable media devices.** All electronic files that contain Department PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- E. **Antivirus software.** All workstations, laptops and other systems that process and/or store Department PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- F. **Patch Management.** All workstations, laptops and other systems that process and/or store Department PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release. Applications and systems that cannot be patched within this time frame due to significant operational reasons must have compensatory controls implemented to minimize risk until the patches can be installed. Applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.
- G. **User IDs and Password Controls.** All users must be issued a unique user name for accessing Department PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed at least every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:

- 1) Upper case letters (A-Z)

- 2) Lower case letters (a-z)
- 3) Arabic numerals (0-9)
- 4) Non-alphanumeric characters (punctuation symbols)

- H. **Data Destruction.** When no longer needed, all Department PHI or PI must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the Department Information Security Office.
- I. **System Timeout.** The system providing access to Department PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- J. **Warning Banners.** All systems providing access to Department PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- K. **System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for Department PHI or PI, or which alters Department PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If Department PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- L. **Access Controls.** The system providing access to Department PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.
- M. **Transmission encryption.** All data transmissions of Department PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing Department PHI can be encrypted. This requirement pertains to any type of Department PHI or PI in motion such as website access, file transfer, and E-Mail.
- N. **Intrusion Detection.** All systems involved in accessing, holding, transporting, and protecting Department PHI or PI that are accessible via

the Internet must be protected by a comprehensive intrusion detection and prevention solution.

### 3. Audit Controls

- A. **System Security Review.** Contractor must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing Department PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
- B. **Log Reviews.** All systems processing and/or storing Department PHI or PI must have a routine procedure in place to review system logs for unauthorized access.
- C. **Change Control.** All systems processing and/or storing Department PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

### 4. Business Continuity / Disaster Recovery Controls

- A. **Emergency Mode Operation Plan.** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of Department PHI or PI held in an electronic format in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than 24 hours.
- B. **Data Backup Plan.** Contractor must have established documented procedures to backup Department PHI to maintain retrievable exact copies of Department PHI or PI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore Department PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of Department data.

### 5. Paper Document Controls

- A. **Supervision of Data.** Department PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. Department PHI or PI in

paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

- B. **Escorting Visitors.** Visitors to areas where Department PHI or PI is contained shall be escorted and Department PHI or PI shall be kept out of sight while visitors are in the area.
- C. **Confidential Destruction.** Department PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
- D. **Removal of Data.** Only the minimum necessary Department PHI or PI may be removed from the premises of the Contractor except with express written permission of the Department. Department PHI or PI shall not be considered "removed from the premises" if it is only being transported from one of Contractor's locations to another of Contractor's locations.
- E. **Faxing.** Faxes containing Department PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
- F. **Mailing.** Mailings containing Department PHI or PI shall be sealed and secured from damage or inappropriate viewing of such PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of Department PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of the Department to use another method is obtained.



**INFORMATION EXCHANGE AGREEMENT  
BETWEEN  
THE SOCIAL SECURITY ADMINISTRATION (SSA)  
AND  
THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES**

- A. PURPOSE:** The purpose of this Information Exchange Agreement ("IEA") is to establish terms, conditions, and safeguards under which SSA will disclose to the State Agency certain information, records, or data (herein "data") to assist the State Agency in administering certain federally funded, state-administered benefit programs (including state-funded, state supplementary payment programs under Title XVI of the Social Security Act) identified in this IEA. By entering into this IEA, the State Agency agrees to comply with:
- the terms and conditions set forth in the Computer Matching and Privacy Protection Act Agreement ("CMPPA Agreement") attached as **Attachment 1**, governing the State Agency's use of the data disclosed from SSA's Privacy Act System of Records; and
  - all other terms and conditions set forth in this IEA and Attachments 2 through 6.
- B. PROGRAMS AND DATA EXCHANGE SYSTEMS:** (1) The State Agency will use the data received or accessed from SSA under this IEA for the purpose of administering the federally funded, state-administered programs identified in **Table 1** below. In **Table 1**, the State Agency has identified: (a) each federally funded, state-administered program that it administers; and (b) each SSA data exchange system to which the State Agency needs access in order to administer the identified program. The list of SSA's data exchange systems is attached as **Attachment 2**. **Attachment 2** provides a brief explanation of each system, as well as use parameters, as necessary.

**TABLE 1**

| <b>FEDERALLY FUNDED BENEFIT PROGRAMS</b>  |  |
|---|--|
| Program   | SSA Data Exchange System(s)  |
| <input checked="" type="checkbox"/> Medicaid  | BENDEX/SDX/SVES IV/SOLQ/SVES-1-Citizenship/Quarters of Coverage/PUPS |
| <input type="checkbox"/> Temporary Assistance to Needy Families (TANF)                          |  |
| <input type="checkbox"/> Supplemental Nutrition Assistance Program (SNAP- formally Food Stamps) |  |
| <input type="checkbox"/> Unemployment Compensation  |  |
| <input type="checkbox"/> State Child Support Agency   |  |
| <input type="checkbox"/> Low-Income Home Energy Assistance Program (LI-HEAP)                    |  |
| <input type="checkbox"/> Workers Compensation   |  |
| <input type="checkbox"/> Vocational Rehabilitation Services                                     |  |



Exhibit E, Attachment B

|  |  |
|--|--|
| <input type="checkbox"/> Foster Care (IV-E)  |  |
| <input checked="" type="checkbox"/> State Children's Health Insurance Program (CHIP)                 | BENDEX/SDX/SVES IV, SVES-1 Citizenship |
| <input type="checkbox"/> Women, Infants and Children (W.I.C.)  |  |
| <input checked="" type="checkbox"/> Medicare Savings Programs (MSP)                                  | LIS File                               |
| <input checked="" type="checkbox"/> Medicare 1144 (Outreach)   | Medicare 1144 Outreach File            |
| <input checked="" type="checkbox"/> Other Federally Funded, State-Administered Programs (List Below) |  |
| Program  | SSA Data Exchange System(s)            |
| Medi-Cal Access Program (MCAP)   | BENDEX/SDX/SVES IV                     |
|  |  |
|  |  |
|  |  |
|  |  |

(2) The State Agency will use each identified data exchange system *only* for the purpose of administering the specific program for which access to the data exchange system is provided. SSA data exchange systems are protected by the Privacy Act and Federal law prohibits the use of SSA's data for any purpose other than the purpose of administering the specific program for which such data is disclosed. In particular, the State Agency will:

- a) use the **tax return data** disclosed by SSA only to determine individual eligibility for, or the amount of, assistance under a program listed in 26 U.S.C. § 6103(1)(7) and (8).
- b) use **citizenship status data** disclosed by SSA only to determine entitlement of *new applicants* to: (a) the Medicaid program and CHIP pursuant to the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3; or (b) federally funded, state-administered health or income maintenance programs approved by SSA to receive the *SSA Data Set* through the Centers for Medicare & Medicaid Services' (CMS) Federal Data Services Hub (Hub).

Applicants for Social Security numbers (SSN) report their citizenship data at the time they apply for their SSNs; there is no obligation for an individual to report to SSA a change in his or her immigration status until he or she files a claim for benefits.

**C. PROGRAM QUESTIONNAIRE:** Prior to signing this IEA, the State Agency will complete and submit to SSA a program questionnaire for each of the federally funded, state-administered programs checked in **Table 1** above. SSA will not disclose any data under this IEA until it has received and approved the completed program questionnaire for each of the programs identified in **Table 1** above.





Exhibit E, Attachment B

D. **TRANSFER OF DATA:** SSA will transmit the data to the State Agency under this IEA using the data transmission method identified in **Table 2** below:

TABLE 2

| TRANSFER OF DATA   |
|--|
| <input type="checkbox"/> Data will be transmitted directly between SSA and the State Agency.   |
| <input checked="" type="checkbox"/> Data will be transmitted directly between SSA and The California Office of Technology (State Transmission/Transfer Component ("STC")) by File Transfer Management System (FTMS), a secure mechanism approved by SSA. The STC will serve as the conduit between SSA and the State Agency pursuant to the State STC Agreement.   |
| <input type="checkbox"/> Data will be transmitted directly between SSA and CMS' Hub by a secure method of transfer approved by SSA. CMS will transmit the <i>SSA Data Set</i> between SSA and the State Agency pursuant to an agreement between SSA and CMS regarding the use of the Hub.  |
| <input type="checkbox"/> Data will be transmitted [ <i>select one: directly between SSA and the Interstate Connection Network ("ICON") or through the [name of STC Agency/Vendor] as the conduit between SSA and the Interstate Connection Network ("ICON")</i> ]. ICON is a wide area telecommunications network connecting state agencies that administer the state unemployment insurance laws. When receiving data through ICON, the State Agency will comply with the "Systems Security Requirements for SSA Web Access to SSA Information Through the ICON," attached as <b>Attachment 3</b> . |

E. **SECURITY PROCEDURES:** The State Agency will comply with limitations on use, treatment, and safeguarding of data under the Privacy Act of 1974 (5 U.S.C. § 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. § 3541, et seq.), and related National Institute of Standards and Technology guidelines. In addition, the State Agency will comply with SSA's "Electronic Information Exchange Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information with the Social Security Administration," attached as **Attachment 4**, as well as the Security Certification Requirements for use of the *SSA Data Set* transmitted via CMS' Hub, attached as **Attachment 5**. The SSA security controls identified under **Attachment 4** of this IEA prevail for all SSA data received by the State Agency, as identified in Table 1 of this IEA. For any tax return data, the State Agency will also comply with the "Tax Information Security Guidelines for Federal, State and Local Agencies," Publication 1075, published by the Secretary of the Treasury and available at the following Internal Revenue Service (IRS) website: <http://www.irs.gov/pub/irs-pdf/p1075.pdf>. This IRS Publication 1075 is incorporated by reference into this IEA.

F. **STATE AGENCY'S RESPONSIBILITIES:** The State Agency will not direct individuals to SSA field offices to obtain data that the State Agency is authorized to receive under this IEA in accordance with Table 1. Where disparities exist between individual-supplied data and SSA's data, the State Agency will take the following steps before referring the individual to an SSA field office:



## Exhibit E, Attachment B

- Check its records to be sure that the data of the original submission has not changed (e.g., last name recently changed);
- Contact the individual to verify the data submitted is accurate; and,
- Consult with the SSA Regional Office Contact to discuss options before advising individuals to contact SSA for resolution. The Regional Office Contact will inform the State Agency of the current protocol through which the individual should contact SSA, i.e., visiting the field office, calling the national network service number, or creating an online account via *my* Social Security.

**G. CONTRACTOR/AGENT RESPONSIBILITIES:** The State Agency will restrict access to the data obtained from SSA to only those authorized State employees, contractors, and agents who need such data to perform their official duties in connection with purposes identified in this IEA. At SSA's request, the State Agency will obtain from each of its contractors and agents a current list of the employees of its contractors and agents who have access to SSA data disclosed under this IEA. The State Agency will require its contractors, agents, and all employees of such contractors or agents with authorized access to the SSA data disclosed under this IEA, to comply with the terms and conditions set forth in this IEA, and not to duplicate, disseminate, or disclose such data without obtaining SSA's prior written approval. In addition, the State Agency will comply with the limitations on use, duplication, and redisclosure of SSA data set forth in Section IX. of the CMPPA Agreement, especially with respect to its contractors and agents.

## **H. SAFEGUARDING AND REPORTING RESPONSIBILITIES FOR PERSONALLY IDENTIFIABLE INFORMATION ("PII"):**

1. The State Agency will ensure that its employees, contractors, and agents:
  - a. properly safeguard PII furnished by SSA under this IEA from loss, theft, or inadvertent disclosure;
  - b. understand that they are responsible for safeguarding this information at all times, regardless of whether or not the State employee, contractor, or agent is at his or her regular duty station;
  - c. ensure that laptops and other electronic devices/media containing PII are encrypted and/or password protected;
  - d. send emails containing PII only if encrypted or if to and from addresses that are secure; and
  - e. limit disclosure of the information and details relating to a PII loss only to those with a need to know.
2. If an employee of the State Agency or an employee of the State Agency's contractor or agent becomes aware of suspected or actual loss of PII, he or she must immediately contact the State Agency official responsible for Systems Security designated below or his or her delegate. That State Agency official or delegate must then notify the SSA Regional Office Contact and the SSA Systems Security Contact identified below. If, for any reason, the responsible State Agency official or delegate is unable to notify the SSA Regional Office or the SSA Systems Security Contact within 1 hour, the responsible State Agency official or delegate must report the incident by contacting SSA's National Network Service Center at 1-877-697-4889. The responsible State Agency official or delegate will use the worksheet, attached as **Attachment 6**, to quickly gather and



Exhibit E, Attachment B

organize information about the incident. The responsible State Agency official or delegate must provide to SSA timely updates as any additional information about the loss of PII becomes available.

3. SSA will make the necessary contact within SSA to file a formal report in accordance with SSA procedures. SSA will notify the Department of Homeland Security's United States Computer Emergency Readiness Team if loss or potential loss of PII related to a data exchange under this IEA occurs.
4. If the State Agency experiences a loss or breach of data, it will determine whether or not to provide notice to individuals whose data has been lost or breached and bear any costs associated with the notice or any mitigation.

**I. POINTS OF CONTACT:**

**FOR SSA**

**San Francisco Regional Office:**

Nancy Borjon  
Data Exchange Coordinator  
Frank Hagel Federal Building  
1221 Nevin Avenue  
Richmond, CA 94801  
Phone: (510) 970-8256  
Fax: (510) 970-8101  
Email: [Nancy.Borjon@ssa.gov](mailto:Nancy.Borjon@ssa.gov)

**Data Exchange Issues:**

Sarah Reagan  
Government Information Specialist  
Office of the General Counsel  
Office of Privacy and Disclosure  
617 Altmeyer  
6401 Security Boulevard  
Baltimore, MD 21235  
Phone: (410) 965-9127  
Fax: (410) 594-0115  
Email: [Sarah.Reagan@ssa.gov](mailto:Sarah.Reagan@ssa.gov)

**Program and Policy Issues:**

Michael Wilkins  
State Liaison Program Manager  
Office of Retirement and Disability Policy  
Office of Data Exchange and Policy  
Publications  
Office of Data Exchange  
3609 Annex Building  
6401 Security Boulevard  
Baltimore, MD 21235  
Phone: (410) 966-4965  
Fax: (410) 966-4054  
Email: [Michael.Wilkins@ssa.gov](mailto:Michael.Wilkins@ssa.gov)

**Systems Security Issues:**

Sean Hagan, Acting Director  
Division of Compliance and  
Assessments  
Office of Information Security  
Office of Systems  
Social Security Administration  
3829 Annex Building  
6401 Security Boulevard  
Baltimore, MD 21235  
Phone: (410) 965-4519  
Fax: (410) 597-0845  
Email: [Sean.Hagan@ssa.gov](mailto:Sean.Hagan@ssa.gov)

**Systems Issues:**

Michelle J. Anderson, Branch Chief  
DBIAE/Data Exchange and Verification  
Branch



Exhibit E, Attachment B

Office of Information Technology Business  
Support  
Office of Systems  
3-D-1 Robert M. Ball Building  
6401 Security Boulevard  
Baltimore, MD 21235  
Phone: (410) 965-5943  
Fax: (410) 966-3147  
Email: [Michelle.J.Anderson@ssa.gov](mailto:Michelle.J.Anderson@ssa.gov)

**FOR STATE AGENCY**

**Agreement Issues:**

Rocky Evans  
Chief, Eligibility Administration Section  
Program Review Branch  
Medi-Cal Eligibility Division (MCED)  
1501 Capitol Avenue  
Sacramento, CA 95814  
Phone: (916) 319-8434  
Fax: (916) 552-9477  
Email: [Rocky.Evans@dhcs.ca.gov](mailto:Rocky.Evans@dhcs.ca.gov)

**Technical Issues:**

YK Chalamcherla  
Chief, Application Development &  
Support Branch  
Enterprise Innovative Technology  
Services (EITS)  
1501 Capitol Avenue  
Sacramento, CA 95814  
Phone: (916) 322-8044  
Fax: (916) 440-7065  
Email: [YK.Chalamcherla@dhcs.ca.gov](mailto:YK.Chalamcherla@dhcs.ca.gov)

Sean Wieland  
Chief, Business & Application  
Integration Section  
Enterprise Innovative Technology  
Services (EITS)  
1501 Capitol Avenue  
Sacramento, CA 95814  
Phone: (916) 550-7088  
Fax: (916) 440-7065  
Email: [Sean.Wieland@dhcs.ca.gov](mailto:Sean.Wieland@dhcs.ca.gov)

- J. DURATION:** The effective date of this IEA is March 6, 2017. This IEA will remain in effect for as long as: (1) a CMPPA Agreement governing this IEA is in effect between SSA and the State or the State Agency; and (2) the State Agency submits a certification in accordance with Section K. below at least 30 days before the expiration and renewal of such CMPPA Agreement.
- K. CERTIFICATION AND PROGRAM CHANGES:** At least 30 days before the expiration and renewal of the State CMPPA Agreement governing this IEA, the State Agency will certify in writing to SSA that: (1) it is in compliance with the terms and conditions of this IEA; (2) the data exchange processes under this IEA have been and will be conducted without change; and (3) it will, upon SSA's request, provide audit reports or other documents that demonstrate review and oversight activities. If there are substantive changes in any of the programs or data exchange processes listed in this IEA, the parties will modify the IEA in



## Exhibit E, Attachment B

accordance with Section L. below and the State Agency will submit for SSA's approval new program questionnaires under Section C. above describing such changes prior to using SSA's data to administer such new or changed program.

- L. MODIFICATION:** Modifications to this IEA must be in writing and agreed to by the parties.
- M. TERMINATION:** The parties may terminate this IEA at any time upon mutual written consent. In addition, either party may unilaterally terminate this IEA upon 90 days advance written notice to the other party. Such unilateral termination will be effective 90 days after the date of the notice, or at a later date specified in the notice.
- SSA may immediately and unilaterally suspend the data flow under this IEA, or terminate this IEA, if SSA, in its sole discretion, determines that the State Agency (including its employees, contractors, and agents) has: (1) made an unauthorized use or disclosure of SSA-supplied data; or (2) violated or failed to follow the terms and conditions of this IEA or the CMPPA Agreement.
- N. INTEGRATION:** This IEA, including all attachments, constitutes the entire agreement of the parties with respect to its subject matter. There have been no representations, warranties, or promises made outside of this IEA. This IEA shall take precedence over any other document that may be in conflict with it.

### ATTACHMENTS

- 1 – CMPPA Agreement
- 2 – SSA Data Exchange Systems
- 3 – Systems Security Requirements for SSA Web Access to SSA Information Through ICON
- 4 – Electronic Information Exchange Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information with the Social Security Administration
- 5 – Security Certification Requirements for use of the *SSA Data Set* Transmitted via CMS' Hub
- 6 – PII Loss Reporting Worksheet



Exhibit E, Attachment B

**O. AUTHORIZED SIGNATURES:** The signatories below warrant and represent that they have competent authority on behalf of their respective agency to enter into the obligations set forth in this IEA.

SOCIAL SECURITY ADMINISTRATION  
REGION IX

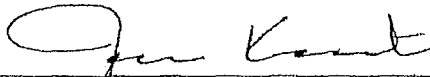


Grace M. Kim  
Regional Commissioner

05/03/2017

Date

THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES



Jennifer Kent  
Director, California Department of Health Care Services

4/7/17

Date



**CERTIFICATION OF COMPLIANCE  
FOR  
THE INFORMATION EXCHANGE AGREEMENT  
BETWEEN  
THE SOCIAL SECURITY ADMINISTRATION (SSA)  
AND  
THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (STATE  
AGENCY)  
(State Agency Level)**

In accordance with the terms of the Information Exchange Agreement (IEA/F) between SSA and the State Agency, the State Agency, through its authorized representative, hereby certifies that, as of the date of this certification:

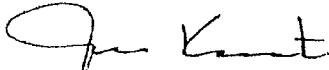
1. The State Agency is in compliance with the terms and conditions of the IEA/F;
2. The State Agency has conducted the data exchange processes under the IEA/F without change, except as modified in accordance with the IEA/F;
3. The State Agency will continue to conduct the data exchange processes under the IEA/F without change, except as may be modified in accordance with the IEA/F;
4. Upon SSA's request, the State Agency will provide audit reports or other documents that demonstrate compliance with the review and oversight activities required under the IEA/F and the governing Computer Matching and Privacy Protection Act Agreement;  
and
5. In compliance with the requirements of the "Electronic Information Exchange Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information with the Social Security Administration," (last updated July 2015) Attachment 4 to the IEA/F, as periodically updated by SSA, the State Agency has not made any changes in the following areas that could potentially affect the security of SSA data:
  - General System Security Design and Operating Environment
  - System Access Control
  - Automated Audit Trail
  - Monitoring and Anomaly Detection
  - Management Oversight
  - Data and Communications Security
  - Contractors of Electronic Information Exchange Partners
  - Cloud Service Providers for Electronic Information Exchange Partners

The State Agency will submit an updated Security Design Plan at least 30 days prior to making any changes to the areas listed above and provide updated contractor employee lists before allowing new employees' access to SSA provided data.

6. The State Agency agrees that use of computer technology to transfer the data is more economical, efficient, and faster than using a manual process. As such, the State Agency will continue to utilize data exchange to obtain data it needs to administer the programs for which it is authorized, under the IEA/F. Further, before directing an individual to an SSA field office to obtain data, the State Agency will verify that the information it submitted to SSA via data exchange is correct, and verify with the individual that the information he/she supplied is accurate. The use of electronic data exchange expedites program administration and limits SSA field office traffic.

The signatory below warrants and represents that he or she is a representative of the State Agency duly authorized to make this certification on behalf of the State Agency.

**DEPARTMENT OF HEALTH CARE SERVICES OF CALIFORNIA**



\_\_\_\_\_  
Jennifer Kent  
Director

5/17/17

\_\_\_\_\_  
Date



**Exhibit E, Attachment B**

**ATTACHMENT 1**

**COMPUTER MATCHING AND PRIVACY PROTECTION ACT AGREEMENT**

**(CMPPA)**

Exhibit E, Attachment B

COMPUTER MATCHING AND PRIVACY PROTECTION ACT AGREEMENT  
BETWEEN  
THE SOCIAL SECURITY ADMINISTRATION  
AND  
THE HEALTH AND HUMAN SERVICES AGENCY  
OF CALIFORNIA

**I. Purpose and Legal Authority**

**A. Purpose**

This Computer Matching and Privacy Protection Act (CMPPA) Agreement (Agreement) between the Social Security Administration (SSA) and the Health and Human Services Agency of California (State Agency) sets forth the terms and conditions governing disclosures of records, information, or data (collectively referred to herein as "data") made by SSA to the State Agency that administers federally funded benefit programs, including those under various provisions of the Social Security Act (Act), such as section 1137 (42 U.S.C. § 1320b-7), as well as the state-funded state supplementary payment programs under Title XVI of the Act. The terms and conditions of this Agreement ensure that SSA makes such disclosures of data, and the State Agency uses such disclosed data, in accordance with the requirements of the Privacy Act of 1974, as amended by the CMPPA of 1988, 5 U.S.C. § 552a.

Under section 1137 of the Act, the State Agency is required to use an income and eligibility verification system to administer specified federally funded benefit programs, including the state-funded state supplementary payment programs under Title XVI of the Act. To assist the State Agency in determining entitlement to and eligibility for benefits under those programs, as well as other federally funded benefit programs, SSA discloses certain data about applicants (and in limited circumstances, members of an applicant's household), for state benefits from SSA Privacy Act Systems of Records (SOR) and verifies the Social Security numbers (SSN) of the applicants.

**B. Legal Authority**

SSA's authority to disclose data and the State Agency's authority to collect, maintain, and use data protected under SSA SORs for specified purposes is:

- Sections 453, 1106(b), and 1137 of the Act (42 U.S.C. §§ 653, 1306(b), and 1320b-7) (income and eligibility verification data);
- 26 U.S.C. § 6103(l)(7) and (8) (tax return data);
- Section 202(x)(3)(B)(iv) of the Act (42 U.S.C. § 402(x)(3)(B)(iv)) and Section 1611(e)(1)(I)(iii) of the Act (42 U.S.C. § 1382(e)(1)(I)(iii)) (prisoner data);

- Section 205(r)(3) of the Act (42 U.S.C. § 405(r)(3)) and the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, § 7213(a)(2) (death data);
- Sections 402, 412, 421, and 435 of Pub. L. 104-193 (8 U.S.C. §§ 1612, 1622, 1631, and 1645) (quarters of coverage data);
- Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Pub. L. 111-3 (citizenship data); and
- Routine use exception to the Privacy Act, 5 U.S.C. § 552a(b)(3) (data necessary to administer other programs compatible with SSA programs).

This Agreement further carries out section 1106(a) of the Act (42 U.S.C. § 1306), the regulations promulgated pursuant to that section (20 C.F.R. Part 401), the Privacy Act of 1974 (5 U.S.C. § 552a), as amended by the CMPPA, related Office of Management and Budget (OMB) guidelines, the Federal Information Security Management Act of 2002 (FISMA) (44 U.S.C. § 3541, et seq.), as amended by the Federal Information Security Modernization Act of 2014 (Pub. L. 113-283); and related National Institute of Standards and Technology (NIST) guidelines, which provide the requirements that the State Agency must follow with regard to use, treatment, and safeguarding of data.

## II. Scope

- A. The State Agency will comply with the terms and conditions of this Agreement and the Privacy Act, as amended by the CMPPA.
- B. The State Agency will execute an Information Exchange Agreement (IEA) with SSA, documenting additional terms and conditions applicable to those specific data exchanges, including the particular benefit programs administered by the State Agency, the data elements that will be disclosed, and the data protection requirements implemented to assist the State Agency in the administration of those programs.
- C. The State Agency will use the SSA data governed by this Agreement to determine entitlement and eligibility of individuals for one or more of the following programs, which are specifically identified in the IEA:
  1. Temporary Assistance to Needy Families (TANF) program under Part A of Title IV of the Act;
  2. Medicaid provided under an approved State plan or an approved waiver under Title XIX of the Act;
  3. State Children's Health Insurance Program (CHIP) under Title XXI of the Act, as amended by the Children's Health Insurance Program Reauthorization Act of 2009;

4. Supplemental Nutritional Assistance Program (SNAP) under the Food Stamp Act of 1977 (7 U.S.C. § 2011, et seq.);
  5. Women, Infants and Children Program (WIC) under the Child Nutrition Act of 1966 (42 U.S.C. § 1771, et seq.);
  6. Medicare Savings Programs (MSP) under 42 U.S.C. § 1396a(10)(E);
  7. Unemployment Compensation programs provided under a state law described in section 3304 of the Internal Revenue Code of 1954;
  8. Low Income Heating and Energy Assistance (LIHEAP or home energy grants) program under 42 U.S.C. § 8621;
  9. State-administered supplementary payments of the type described in section 1616(a) of the Act;
  10. Programs under a plan approved under Titles I, X, XIV, or XVI of the Act;
  11. Foster Care and Adoption Assistance under Title IV of the Act;
  12. Child Support Enforcement programs under section 453 of the Act (42 U.S.C. § 653);
  13. Other applicable federally funded programs administered by the State Agency under Titles I, IV, X, XIV, XVI, XVIII, XIX, XX, and XXI of the Act; and
  14. Any other federally funded programs administered by the State Agency that are compatible with SSA's programs.
- D. The State Agency will ensure that SSA data disclosed for the specific purpose of administering a particular federally funded benefit program is used only to administer that program.

### **III. Justification and Expected Results**

#### **A. Justification**

This Agreement and related data exchanges with the State Agency are necessary for SSA to assist the State Agency in its administration of federally funded benefit programs by providing the data required to accurately determine entitlement and eligibility of individuals for benefits provided under these programs. SSA uses computer technology to transfer the data because it is more economical, efficient, and faster than using manual processes.

#### **B. Expected Results**

The State Agency will use the data provided by SSA to improve public service and program efficiency and integrity. The use of SSA data expedites the application process and ensures that benefits are awarded only to applicants that satisfy the State Agency's program criteria. A cost-benefit analysis for the exchange made under this Agreement is not required in accordance with the determination by the SSA Data Integrity Board (DIB) to waive such analysis pursuant to 5 U.S.C. § 552a(u)(4)(B).

#### IV. Record Description

##### A. Systems of Records (SOR)

SSA SORs used for purposes of the subject data exchanges include:

- 60-0058 -- Master Files of SSN Holders and SSN Applications;
- 60-0059 -- Earnings Recording and Self-Employment Income System;
- 60-0090 -- Master Beneficiary Record;
- 60-0103 -- Supplemental Security Income Record (SSR) and Special Veterans Benefits (SVB);
- 60-0269 -- Prisoner Update Processing System (PUPS); and
- 60-0321 -- Medicare Part D and Part D Subsidy File.

The State Agency will only use the tax return data contained in **SOR 60-0059** (Earnings Recording and Self-Employment Income System) in accordance with 26 U.S.C. § 6103.

##### B. Data Elements

Data elements disclosed in computer matching governed by this Agreement are Personally Identifiable Information (PII) from specified SSA SORs, including names, SSNs, addresses, amounts, and other information related to SSA benefits and earnings information. Specific listings of data elements are available at:

<http://www.ssa.gov/dataexchange/>

##### C. Number of Records Involved

The maximum number of records involved in this matching activity is the number of records maintained in SSA's SORs listed above in Section IV.A.

#### V. Notice and Opportunity to Contest Procedures

##### A. Notice to Applicants

The State Agency will notify all individuals who apply for federally funded, state-administered benefits that any data they provide are subject to verification through computer matching with SSA. The State Agency and SSA will provide such notice through appropriate language printed on application forms or separate handouts.

**B. Notice to Beneficiaries/Recipients/Annuitants**

The State Agency will provide notice to beneficiaries, recipients, and annuitants under the programs covered by this Agreement informing them of ongoing computer matching with SSA. SSA will provide such notice through publication in the Federal Register and periodic mailings to all beneficiaries, recipients, and annuitants describing SSA's matching activities.

**C. Opportunity to Contest**

The State Agency will not terminate, suspend, reduce, deny, or take other adverse action against an applicant for or recipient of federally funded, state-administered benefits based on data disclosed by SSA from its SORs until the individual is notified in writing of the potential adverse action and provided an opportunity to contest the planned action. "Adverse action" means any action that results in a termination, suspension, reduction, or final denial of eligibility, payment, or benefit. Such notices will:

1. Inform the individual of the match findings and the opportunity to contest these findings;
2. Give the individual until the expiration of any time period established for the relevant program by a statute or regulation for the individual to respond to the notice. If no such time period is established by a statute or regulation for the program, a 30-day period will be provided. The time period begins on the date on which notice is mailed or otherwise provided to the individual to respond; and
3. Clearly state that, unless the individual responds to the notice in the required time period, the State Agency will conclude that the SSA data are correct and will effectuate the planned action or otherwise make the necessary adjustment to the individual's benefit or entitlement.

**VI. Records Accuracy Assessment and Verification Procedures**

Pursuant to 5 U.S.C. § 552a(p)(1)(A)(ii), SSA's DIB has determined that the State Agency may use SSA's benefit data without independent verification. SSA has independently assessed the accuracy of its benefits data to be more than 99 percent accurate when the benefit record is created.

Prisoner and death data, some of which is not independently verified by SSA, does not have the same degree of accuracy as SSA's benefit data. Therefore, the State Agency must independently verify these data through applicable State verification procedures and the notice and opportunity to contest procedures specified in Section V of this Agreement before taking any adverse action against any individual.

Based on SSA's Office of Quality Review "Fiscal Year 2014 Enumeration Accuracy Report," the SSA Enumeration System database (the Master Files of SSN Holders and SSN Applications System) used for SSN matching is 99 percent accurate for records updated by SSA employees.

Individuals applying for SSNs report their citizenship status at the time they apply for their SSNs. There is no obligation for an individual to report to SSA a change in his or her immigration status until he or she files for a Social Security benefit. The State Agency must independently verify citizenship data through applicable State verification procedures and the notice and opportunity to contest procedures specified in Section V of this Agreement before taking any adverse action against any individual.

#### **VII. Disposition and Records Retention of Matched Items**

- A. The State Agency will retain all data received from SSA to administer programs governed by this Agreement only for the required processing times for the applicable federally funded benefit programs and will then destroy all such data.
- B. The State Agency may retain SSA data in hardcopy to meet evidentiary requirements, provided that they retire such data in accordance with applicable state laws governing the State Agency's retention of records.
- C. The State Agency may use any accretions, deletions, or changes to the SSA data governed by this Agreement to update their master files of federally funded, state-administered benefit program applicants and recipients and retain such master files in accordance with applicable state laws governing the State Agency's retention of records.
- D. The State Agency may not create separate files or records comprised solely of the data provided by SSA to administer programs governed by this Agreement.
- E. SSA will delete electronic data input files received from the State Agency after it processes the applicable match. SSA will retire its data in accordance with the Federal Records Retention Schedule (44 U.S.C. § 3303a).

#### **VIII. Security Procedures**

SSA and the State Agency will comply with the security and safeguarding requirements of the Privacy Act, as amended by the CMPPA, related OMB guidelines, FISMA, related NIST guidelines, and the current revision of Internal Revenue Service (IRS) Publication 1075, *Tax Information Security Guidelines for Federal, State and Local Agencies*, available at <http://www.irs.gov>. In addition, SSA

and the State Agency will have in place administrative, technical, and physical safeguards for the matched data and results of such matches. Additional administrative, technical, and physical security requirements governing all data SSA provides electronically to the State Agency, including SSA's *Electronic Information Exchange Security Requirements and Procedures for State and local Agencies Exchanging Electronic Information with SSA*, as well as specific guidance on safeguarding and reporting responsibilities for PII, are set forth in the IEAs.

SSA has the right to monitor the State Agency's compliance with FISMA, the terms of this Agreement, and the IEA and to make onsite inspections of the State Agency for purposes of auditing compliance, if necessary, during the lifetime of this Agreement or of any extension of this Agreement. This right includes onsite inspection of any entity that receives SSA information from the State Agency under the terms of this Agreement, if SSA determines it is necessary.

#### **IX. Records Usage, Duplication, and Redisclosure Restrictions**

- A. The State Agency will use and access SSA data and the records created using that data only for the purpose of verifying eligibility for the specific federally funded benefit programs identified in the IEA.
- B. The State Agency will comply with the following limitations on use, duplication, and redisclosure of SSA data:
  1. The State Agency will not use or redisclose the data disclosed by SSA for any purpose other than to determine eligibility for, or the amount of, benefits under the state-administered income/health maintenance programs identified in this Agreement.
  2. The State Agency will not extract information concerning individuals who are neither applicants for, nor recipients of, benefits under the state-administered income/health maintenance programs identified in this Agreement. In limited circumstances that are approved by SSA, the State Agency may extract information about an individual other than the applicant/recipient when the applicant/recipient has provided identifying information about the individual and the individual's income or resources affect the applicant's/recipient's eligibility for such program.
  3. The State Agency will not disclose to an applicant/recipient information about another individual (i.e., an applicant's household member) without the written consent from the individual to whom the information pertains.
  4. The State Agency will use the Federal tax information (FTI) disclosed by SSA only to determine individual eligibility for, or the amount of, assistance under a state plan pursuant to section 1137 programs and child support enforcement



programs in accordance with 26 U.S.C. § 6103(l)(7) and (8). The State Agency receiving FTI will maintain all FTI from IRS in accordance with 26 U.S.C. § 6103(p)(4) and the IRS Publication 1075. Contractors and agents acting on behalf of the State Agency will only have access to tax return data where specifically authorized by 26 U.S.C. § 6103 and the current revision IRS Publication 1075.

5. The State Agency will use the citizenship status data disclosed by SSA only to determine entitlement of new applicants to: (a) the Medicaid program and CHIP pursuant to CHIPRA, Pub. L. 111-3; or (b) federally funded, state-administered health or income maintenance programs approved by SSA. The State Agency will further comply with additional terms and conditions regarding use of citizenship data, as set forth in the State Agency's IEA.
6. The State Agency will restrict access to the data disclosed by SSA to only those authorized State employees, contractors, and agents who need such data to perform their official duties in connection with the purposes identified in this Agreement.
7. The State Agency will enter into a written agreement with each of its contractors and agents who need SSA data to perform their official duties whereby such contractor or agent agrees to abide by all relevant Federal laws, restrictions on access, use, and disclosure, and security requirements in this Agreement. The State Agency will provide its contractors and agents with copies of this Agreement, related IEAs, and all related attachments before initial disclosure of SSA data to such contractors and agents. Prior to signing this Agreement, and thereafter at SSA's request, the State Agency will obtain from its contractors and agents a current list of the employees of such contractors and agents with access to SSA data and provide such lists to SSA.
8. If the State Agency is authorized or required – pursuant to an applicable law, regulation, or intra-governmental documentation – to provide SSA data to another State or local government entity for the administration of the federally funded, state-administered programs covered by this Agreement, the State Agency must ensure that the State or local government entity, including its employees, abides by all relevant Federal laws, restrictions on access, use, and disclosure, and security requirements in this Agreement and the IEA. At SSA's request, the State Agency will provide copies of any applicable law, regulation, or intra-governmental documentation that authorizes the intra-governmental relationship with the State or local government entity. Upon request from SSA, the State Agency will also establish how it ensures that State or local government entity complies with the terms of this Agreement and the IEA.
9. The State Agency's employees, contractors, and agents who access, use, or disclose SSA data in a manner or purpose not authorized by this Agreement

may be subject to civil and criminal sanctions pursuant to applicable Federal statutes.

10. The State Agency will conduct triennial compliance reviews of its contractor(s) and agent(s) no later than three years after the initial approval of the security certification to SSA. The State Agency will share documentation of its recurring compliance reviews with its contractor(s) and agent(s) with SSA. The State Agency will provide documentation to SSA during its scheduled compliance and certification reviews or upon request.

C. The State Agency will not duplicate in a separate file or disseminate, without prior written permission from SSA, the data governed by this Agreement for any purpose other than to determine entitlement to, or eligibility for, federally funded benefits. The State Agency proposing the redisclosure must specify in writing to SSA what data are being disclosed, to whom, and the reasons that justify the redisclosure. SSA will not give permission for such redisclosure unless the redisclosure is required by law or essential to the conduct of the matching program and authorized under a routine use. To the extent SSA approves the requested redisclosure, the State Agency will ensure that any entity receiving the redisclosed data will comply with the procedures and limitations on use, duplication, and redisclosure of SSA data, as well as all administrative, technical, and physical security requirements governing all data SSA provides electronically to the State Agency including specific guidance on safeguarding and reporting responsibilities for PII, as set forth in this Agreement and the accompanying IEAs.

#### **X. Comptroller General Access**

The Comptroller General (the Government Accountability Office) may have access to all records of the State Agency that the Comptroller General deems necessary to monitor and verify compliance with this Agreement in accordance with 5 U.S.C. § 552a(o)(1)(K).

#### **XI. Duration, Modification, and Termination of the Agreement**

##### **A. Duration**

1. This Agreement is effective from July 1, 2017 (Effective Date) through December 31, 2018 (Expiration Date).
2. In accordance with the CMPPA, SSA will: (a) publish a Computer Matching Notice in the Federal Register at least 30 days prior to the Effective Date; (b) send required notices to the Congressional committees of jurisdiction under 5 U.S.C. § 552a(o)(2)(A)(i) at least 40 days prior to the

Effective Date; and (c) send the required report to OMB at least 40 days prior to the Effective Date.

3. Within 3 months prior the Expiration Date, the SSA DIB may, without additional review, renew this Agreement for a period not to exceed 12 months, pursuant to 5 U.S.C. § 552a(o)(2)(D), if:
  - the applicable data exchange will continue without any change; and
  - SSA and the State Agency certify to the DIB in writing that the applicable data exchange has been conducted in compliance with this Agreement.
4. If either SSA or the State Agency does not wish to renew this Agreement, it must notify the other party of its intent not to renew at least 3 months prior to the Expiration Date.

#### B. Modification

Any modification to this Agreement must be in writing, signed by both parties, and approved by the SSA DIB.

#### C. Termination

The parties may terminate this Agreement at any time upon mutual written consent of both parties. Either party may unilaterally terminate this Agreement upon 90 days advance written notice to the other party; such unilateral termination will be effective 90 days after the date of the notice, or at a later date specified in the notice.

SSA may immediately and unilaterally suspend the data flow or terminate this Agreement if SSA determines, in its sole discretion, that the State Agency has violated or failed to comply with this Agreement.

### XII. Reimbursement

In accordance with section 1106(b) of the Act, the Commissioner of SSA has determined not to charge the State Agency the costs of furnishing the electronic data from the SSA SORs under this Agreement.

### XIII. Disclaimer

SSA is not liable for any damages or loss resulting from errors in the data provided to the State Agency under any IEAs governed by this Agreement. Furthermore, SSA

is not liable for any damages or loss resulting from the destruction of any materials or data provided by the State Agency.

The performance or delivery by SSA of the goods and/or services described herein and the timeliness of said delivery are authorized only to the extent that they are consistent with proper performance of the official duties and obligations of SSA and the relative importance of this request to others. If for any reason SSA delays or fails to provide services, or discontinues the services or any part thereof, SSA is not liable for any damages or loss resulting from such delay or for any such failure or discontinuance.

**XIV. Points of Contact**

**A. SSA Point of Contact**

**San Francisco Regional Office:**

Jamie Lucero, Director

San Francisco Regional Office, Center for Disability and Programs Support

1221 Nevin Ave., 6<sup>th</sup> Floor

Richmond, CA 94801

Phone: 510-970-8297

Fax: 510-970-8101

Email: [Jamie.Lucero@ssa.gov](mailto:Jamie.Lucero@ssa.gov)

**B. State Agency Point of Contact**

Sonia Herrera

California Health and Human Services Agency

1600 Ninth Street

Sacramento, CA 95814

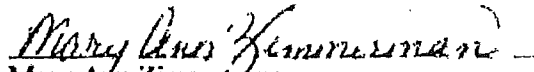
Phone: 916-654-3459 / Fax: 916-440-5001

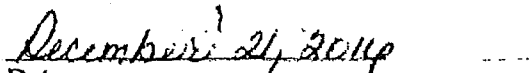
Email: [Sonia.Herrera@chhs.ca.gov](mailto:Sonia.Herrera@chhs.ca.gov)

**XV. SSA and Data Integrity Board Approval of Model CMPPA Agreement**

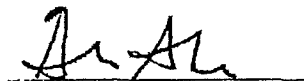
The signatories below warrant and represent that they have the competent authority on behalf of SSA to approve the model of this CMPPA Agreement.


**SOCIAL SECURITY ADMINISTRATION**

  
Mary Ann Zimmerman  
Acting Deputy Executive Director  
Office of Privacy and Disclosure  
Office of the General Counsel

  
Date

I certify that the SSA Data Integrity Board approved the model of this CMPPA Agreement.


  
Glenn Sklar  
Acting Chair  
SSA Data Integrity Board

  
Date

**XVI. Authorized Signatures**

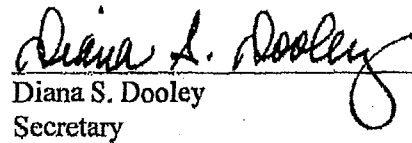
The signatories below warrant and represent that they have the competent authority on behalf of their respective agency to enter into the obligations set forth in this Agreement.

**SOCIAL SECURITY ADMINISTRATION**

  
\_\_\_\_\_  
Grace M. Kim  
Regional Commissioner  
San Francisco

6/2/17  
\_\_\_\_\_  
Date

**HEALTH AND HUMAN SERVICES AGENCY**

  
\_\_\_\_\_  
Diana S. Dooley  
Secretary

May 24, 2017  
\_\_\_\_\_  
Date

Exhibit E, Attachment B

**ATTACHMENT 2**

**AUTHORIZED DATA EXCHANGE SYSTEM(S)**

**Authorized Data Exchange System(s)**

**BEER (Beneficiary Earnings Exchange Record):** Employer data for the last calendar year.

**BENDEX (Beneficiary and Earnings Data Exchange):** Primary source for Title II eligibility, benefit and demographic data.

**LIS (Low-Income Subsidy):** Data from the Low-Income Subsidy Application for Medicare Part D beneficiaries -- used for Medicare Savings Programs (MSP).

**Medicare 1144 (Outreach):** Lists of individuals on SSA roles, who may be eligible for medical assistance for: payment of the cost of Medicare cost-sharing under the Medicaid program pursuant to Sections 1902(a)(10)(E) and 1933 of the Act; transitional assistance under Section 1860D-31(f) of the Act; or premiums and cost-sharing subsidies for low-income individuals under Section 1860D-14 of the Act.

**PUPS (Prisoner Update Processing System):** Confinement data received from over 2000 state and local institutions (such as jails, prisons, or other penal institutions or correctional facilities) -- PUPS matches the received data with the MBR and SSR benefit data and generates alerts for review/action.

**QUARTERS OF COVERAGE (QC):** Quarters of Coverage data as assigned and described under Title II of the Act -- The term "quarters of coverage" is also referred to as "credits" or "Social Security credits" in various SSA public information documents, as well as to refer to "qualifying quarters" to determine entitlement to receive Food Stamps.

**SDX (SSI State Data Exchange):** Primary source of Title XVI eligibility, benefit and demographic data as well as data for Title VIII Special Veterans Benefits (SVB).

**SOLQ/SOLQ-I (State On-line Query/State On-line Query-Internet):** A real-time online system that provides SSN verification and MBR and SSR benefit data similar to data provided through SVES.



Exhibit E, Attachment B

Attachment 2

**SVES (State Verification and Exchange System):** A batch system that provides SSN verification, MBR benefit information, and SSR information through a uniform data response based on authorized user-initiated queries. The SVES types are divided into five different responses as follows:

- |                            |   |
|----------------------------|---|
| <b>SVES I:</b>             | This batch provides strictly SSN verification.  |
| <b>SVES I/Citizenship*</b> | This batch provides strictly SSN verification and citizenship data.   |
| <b>SVES II:</b>            | This batch provides strictly SSN verification and MBR benefit information   |
| <b>SVES III:</b>           | This batch provides strictly SSN verification and SSR/SVB.  |
| <b>SVES IV:</b>            | This batch provides SSN verification, MBR benefit information, and SSR/SVB information, which represents all available SVES data. |

*\* Citizenship status data disclosed by SSA under the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3 is only for the purpose of determining entitlement to Medicaid and CHIP program for new applicants.*



Exhibit E, Attachment B

**ATTACHMENT 3**

**SYSTEM SECURITY REQUIREMENTS THROUGH THE ICON SYSTEM**

Not Applicable

Exhibit E, Attachment B

**Attachment 3**

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**Systems Security Requirements for SWA Access  
to SSA Information Through the ICON System**

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12/9/2016

## Exhibit E, Attachment B

### **Systems Security Requirements for SWA Access to SSA Information Through the ICON System**

#### **A. General Systems Security Standards**

SWA's that request and receive information from SSA through the ICON system must comply with the following general systems security standards concerning access to and control of SSA information. The SWA must restrict access to the information to authorized employees who need it to perform their official duties. Similar to IRS requirements, information retrieved from SSA must be stored in a manner that is physically and electronically secure from access by unauthorized persons during both duty and non-duty hours, or when not in use. SSA information must be processed under the immediate supervision and control of authorized personnel. The SWA must employ both physical and electronic safeguards to ensure that unauthorized personnel cannot retrieve SSA information by means of computer, remote terminal or other means.

All persons who will have access to any SSA information must be advised of the confidentiality of the information, the safeguards required to protect the information, and the civil and criminal sanctions for non-compliance contained in the applicable Federal and State laws. SSA may, at its discretion, make on-site inspections or other provisions to ensure that adequate safeguards are being maintained by the SWA.

#### **B. System Security Requirements for SWA's**

SWA's that receive SSA information through the ICON system must comply with the following systems security requirements which must be met before DOL will approve a request from an SWA for online access to SSA information through the ICON system. The SWA system security design and procedures must conform to these requirements. They must be documented by the SWA and subsequently certified by either DOL or by an Independent Verification and Validation (IV&V) contractor prior to initiating transactions to and from SSA through the ICON.

No specific format for submitting this documentation to DOL is required. However, regardless of how it is presented, the information should be submitted to DOL in both hardcopy and electronic format, and the hardcopy should be submitted over the signature of an official representative of the SWA. Written documentation should address each of the following security control areas:

## Exhibit E, Attachment B

### **1. General System Security Design and Operating Environment**

The SWA must provide a written description of its' system configuration and security features. This should include the following:

- a. A general description of the major hardware, software and communications platforms currently in use, including a description of the system's security design features and user access controls; and
- b. A description of how SSA information will be obtained by and presented to SWA users, including sample computer screen presentation formats and an explanation of whether the SWA system will request information from SSA by means of systems generated or user initiated transactions; and
- c. A description of the organizational structure and relationships between systems managers, systems security personnel, and users, including an estimate of the number of users that will have access to SSA data within the SWA system and an explanation of their job descriptions.

#### ***Meeting this Requirement***

SWA's must explain in their documentation the overall design and security features of their system. During onsite certification, the IV&V contractor, or other certifier, will use the SWA's design documentation and discussion of the additional systems security requirements (following) as their guide for conducting the onsite certification and for verifying that the SWA systems and procedures conform to SSA requirements.

Following submission to the DOL in connection with the initial certification process, the documentation must be updated any time significant architectural changes are made to the system or to its' security features. During its future compliance reviews (see below), the SSA will ask to review the updated design documentation as needed.

### **2. Automated Audit Trail**

SWA's receiving SSA information through the ICON system must implement and maintain a fully automated audit trail system capable of data collection, data retrieval and data storage. At a minimum, data collected through the audit trail system must associate each query transaction to its initiator and relevant business purpose (i.e. the SWA client record for which SSA data was requested), and each transaction must be time and date stamped. Each query transaction must be stored

## Exhibit E, Attachment B

in the audit file as a separate record, not overlaid by subsequent query transactions.

Access to the audit file must be restricted to authorized users with a "need to know" and audit file data must be unalterable (read only) and maintained for a minimum of three (preferably seven) years. Retrieval of information from the automated audit trail may be accomplished online or through batch access. This requirement must be met before DOL will approve the SWA's request for access to SSA information through the ICON system.

If SSA-supplied information is retained in the SWA system, or if certain data elements within the SWA system will indicate to users that the information has been verified by SSA, the SWA system also must capture an audit trail record of any user who views SSA information stored within the SWA system. The audit trail requirements for these inquiry transactions are the same as those outlined above for SWA transactions requesting information directly from SSA.

### *Meeting this Requirement*

The SWA must include in their documentation a description of their audit trail capability and a discussion of how it conforms to SSA's requirements. During onsite certification, the IV&V contractor, or other certifier, will request a demonstration of the system's audit trail and retrieval capability. The SWA must be able to identify employee's who initiate online requests for SSA information (or, for systems generated transaction designs, the SWA case that triggered the transaction), the time and date of the request, and the purpose for which the transaction was originated. The certifier, or IV&V contractor, also will request a demonstration of the system's audit trail capability for tracking the activity of SWA employees that are permitted to view SSA supplied information within the SWA system, if applicable.

During its future compliance reviews (see below), the SSA also will test the SWA audit trail capability by requesting verification of a sample of transactions it has processed from the SWA after implementation of access to SSA information through the ICON system.

### **3. System Access Control**

The SWA must utilize and maintain technological (logical) access controls that limit access to SSA information to only those users authorized for such access based on their official duties. The SWA must use a recognized user access security software package (e.g. RAC-F, ACF-2, TOP SECRET) or an equivalent security software design. The access control software must utilize personal identification numbers (PIN) and passwords (or biometric identifiers) in combination with the user's system identification code. The SWA must have

## Exhibit E, Attachment B

management control and oversight of the function of authorizing individual user access to SSA information, and over the process of issuing and maintaining access control PINs and passwords for access to the SWA system.

### *Meeting this Requirement*

The SWA must include in their documentation a description of their technological access controls, including identifying the type of software used, an overview of the process used to grant access to protected information for workers in different job categories, and a description of the function responsible for PIN/password issuance and maintenance.

During onsite certification, the IV&V contractor, or other certifier, will meet with the individual(s) responsible for these functions to verify their responsibilities in the SWA's access control process and will observe a demonstration of the procedures for logging onto the SWA system and for accessing SSA information.

### **4. Monitoring and Anomaly Detection**

The SWA's system must include the capability to prevent employees from browsing (i.e. unauthorized access or use of SSA information) SSA records for information not related to an SWA client case (e.g. celebrities, SWA employees, relatives, etc.) If the SWA system design is transaction driven (i.e. employees cannot initiate transactions themselves, rather, the SWA system triggers the transaction to SSA), or if the design includes a "permission module" (i.e. the transaction requesting information from SSA cannot be triggered by an SWA employee unless the SWA system contains a record containing the client's Social Security Number), then the SWA needs only minimal additional monitoring and anomaly detection. If such designs are used, the SWA only needs to monitor any attempts by their employees to obtain information from SSA for clients not in their client system, or attempts to gain access to SSA data within the SWA system by employees not authorized to have access to such information.

If the SWA design does not include either of the security control features described above, then the SWA must develop and implement compensating security controls to prevent their employees from browsing SSA records. These controls must include monitoring and anomaly detection features, either systematic, manual, or a combination thereof. Such features must include the capability to detect anomalies in the volume and/or type of queries requested by individual SWA employees, and systematic or manual procedures for verifying that requests for SSA information are in compliance with valid official business purposes. The SWA system must produce reports providing SWA management and/or supervisors with the capability to appropriately monitor user activity, such as:

## Exhibit E, Attachment B

- User ID exception reports

This type of report captures information about users who enter incorrect user ID's when attempting to gain access to the system or to the transaction that initiates requests for information from SSA, including failed attempts to enter a password.

- Inquiry match exception reports

This type of report captures information about users who may be initiating transactions for Social Security Numbers that have no client case association within the SWA system.

- System error exception reports

This type of report captures information about users who may not understand or be following proper procedures for access to SSA information through the ICON system.

- Inquiry activity statistical reports

This type of report captures information about transaction usage patterns among authorized users, which would provide SWA management a tool for monitoring typical usage patterns compared to extraordinary usage.

The SWA must have a process for distributing these monitoring and exception reports to appropriate local managers/supervisors, or to local security officers, to ensure that the reports are used by those whose responsibilities include monitoring the work of the authorized users.

### *Meeting this Requirement*

The SWA must explain in their documentation how their system design will monitor and/or prevent their employees from browsing SSA information. If the design is based on a "permission module" (see above), a similar design, or is transaction driven (i.e. no employee initiated transactions) then the SWA does not need to implement additional systematic and/or managerial oversight procedures to monitor their employees access to SSA information. The SWA only needs to monitor user access control violations. The documentation should clearly explain how the system design will prevent SWA employees from browsing SSA records.

If the SWA system design permits employee initiated transactions that are uncontrolled (i.e. no systematically enforced relationship to an SWA client), then the SWA must develop and document the monitoring and anomaly detection process they will employ to deter their employees from browsing SSA



## Exhibit E, Attachment B

information. The SWA should include sample report formats demonstrating their capability to produce the types of reports described above, and the SWA should include a description of the process that will be used to distribute these reports to managers/supervisors, and the management controls that will ensure the reports are used for their intended purpose.

During onsite certification, the IV&V contractor, or other certifier, will request a demonstration of the SWA's monitoring and anomaly detection capability.

- If the design is based on a permission module or similar design, or is transaction driven, the SWA will demonstrate how the system triggers requests for information from SSA.
- If the design is based on a permission module, the SWA will demonstrate the process by which requests for SSA information are prevented for Social Security Numbers not present in the SWA system (e.g. by attempting to obtain information from SSA using at least one, randomly created, fictitious number not known to the SWA system.)
- If the design is based on systematic and/or managerial monitoring and oversight, the SWA will provide copies of anomaly detection reports and demonstrate the report production capability.

During onsite certification, the IV&V contractor, or other certifier, also will meet with a sample of managers and/or supervisors responsible for monitoring ongoing compliance to assess their level of training to monitor their employee's use of SSA information, and for reviewing reports and taking necessary action.

### **5. Management Oversight and Quality Assurance**

The SWA must establish and/or maintain ongoing management oversight and quality assurance capabilities to ensure that only authorized employees have access to SSA information through the ICON system, and to ensure there is ongoing compliance with the terms of the SWA's data exchange agreement with SSA. The management oversight function must consist of one or more SWA management officials whose job functions include responsibility for assuring that access to and use of SSA information is appropriate for each employee position type for which access is granted.

This function also should include responsibility for assuring that employees granted access to SSA information receive adequate training on the sensitivity of the information, safeguards that must be followed, and the penalties for misuse, and should perform periodic self-reviews to monitor ongoing usage of the online access to SSA information. In addition, there should be the capability to randomly sample work activity involving online requests for SSA information to

## Exhibit E, Attachment B

determine whether the requests comply with these guidelines. These functions should be performed by SWA employees whose job functions are separate from those who request or use information from SSA.

### *Meeting this Requirement*

The SWA must document that they will establish and/or maintain ongoing management oversight and quality assurance capabilities for monitoring the issuance and maintenance of user ID's for online access to SSA information, and oversight and monitoring of the use of SSA information within the SWA business process. The outside entity should describe how these functions will be performed within their organization and identify the individual(s) or component(s) responsible for performing these functions.

During onsite certification, the IV&V contractor, or other certifier, will meet with the individual(s) responsible for these functions and request a description of how these responsibilities will be carried out.

## **6. Security Awareness and Employee Sanctions**

The SWA must establish and/or maintain an ongoing function that is responsible for providing security awareness training for employees that includes information about their responsibility for proper use and protection of SSA information, and the possible sanctions for misuse. Security awareness training should occur periodically or as needed, and should address the Privacy Act and other Federal and State laws governing use and misuse of protected information. In addition, there should be in place a series of administrative procedures for sanctioning employees who violate these laws through the unlawful disclosure of protected information.

### *Meeting this Requirement*

The SWA must document that they will establish and/or maintain an ongoing function responsible for providing security awareness training for employees that includes information about their responsibility for proper use and protection of SSA information, and the possible sanctions for misuse of SSA information. The SWA should describe how these functions will be performed within their organization, identify the individual(s) or component(s) responsible for performing the functions, and submit copies of existing procedures, training material and employee acknowledgment statements.

During onsite certification, the IV&V contractor, or other certifier, will meet with the individuals responsible for these functions and request a description of how these responsibilities are carried out. The IV&V contractor, or other certifier, also will meet with a sample of SWA employees to assess their level of training and

## Exhibit E, Attachment B

understanding of the requirements and potential sanctions applicable to the use and misuse of SSA information.

### **7. Data and Communications Security**

The encryption method employed must meet acceptable standards designated by the National Institute of Standards and Technology (NIST). The recommended encryption method to secure data in transport for use by SSA is the Advanced Encryption Standard (AES) or triple DES (DES3) if AES is unavailable.

### **D. Onsite Systems Security Certification Review**

The SWA must obtain and participate in an onsite review and compliance certification of their security infrastructure and implementation of these security requirements prior to being permitted to submit online transaction to SSA through the ICON system. DOL will require an initial onsite systems security certification review to be performed by either an independent IV&V contractor, or other DOL approved certifier. The onsite certification will address each of the requirements described above and will include, where appropriate, a demonstration of the SWA's implementation of each requirement. The review will include a walkthrough of the SWA's data center to observe and document physical security safeguards, a demonstration of the SWA's implementation of online access to SSA information through the ICON system, and discussions with managers/supervisors. The IV&V contractor, or other certifier, also will visit at least one of the SWA's field offices to discuss the online access to SSA information with a sample of line workers and managers to assess their level of training and understanding of the proper use and protection of SSA information.

The IV&V contractor, or other certifier, will separately document and certify SWA compliance with each SSA security requirement. To fully comply with SSA's security requirements and be certified to connect to SSA through the ICON system, the SWA must submit to DOL a complete package of documentation as described above and a complete certification from an independent IV&V contractor, or other DOL approved certifier, that the SWA system design and infrastructure is in agreement with the SWA documentation and consistent with SSA requirements. Any unresolved or unimplemented security control features must be resolved by the SWA before DOL will authorize their connection to SSA through the ICON system.

Following initial certification and authorization from DOL to connect to SSA through the ICON system, SSA is responsible for future systems security compliance reviews. SSA conducts such reviews approximately once every three years, or as needed if there is a significant change in the SWA's computing platform, or if there is a violation of any of SSA's systems security requirements or an unauthorized disclosure of SSA information by the SWA. The format of those reviews generally consists of

Exhibit E, Attachment B

reviewing and updating the SWA compliance with the systems security requirements described above.

Exhibit E, Attachment B

SENSITIVE DOCUMENT

**ATTACHMENT 4**

**ELECTRONIC INFORMATION EXCHANGE SECURITY REQUIREMENTS**

**AND PROCEDURES**

(Technical Systems Security Requirements- TSSR)



**ELECTRONIC INFORMATION EXCHANGE SECURITY  
REQUIREMENTS AND PROCEDURES  
FOR  
STATE AND LOCAL AGENCIES EXCHANGING ELECTRONIC  
INFORMATION WITH THE SOCIAL SECURITY  
ADMINISTRATION**

**SENSITIVE DOCUMENT**

Version 7.0  
July 2015

## TABLE OF CONTENTS

1. Introduction
2. Electronic Information Exchange (EIE) Definition
3. Roles and Responsibilities
4. General Systems Security Standards
5. Systems Security Requirements
  - 5.1 Overview
  - 5.2 General System Security Design and Operating Environment
  - 5.3 System Access Control
  - 5.4 Automated Audit Trail
  - 5.5 Personally Identifiable Information (PII)
  - 5.6 Monitoring and Anomaly Detection
  - 5.7 Management Oversight and Quality Assurance
  - 5.8 Data and Communications Security
  - 5.9 Incident Reporting
  - 5.10 Security Awareness and Employee Sanctions
  - 5.11 Contractors of Electronic Information Exchange Partners
  - 5.12 Cloud Service Providers (CSP) for Electronic Information Exchange Partners
6. Security Certification and Compliance Review Programs
  - 6.1 The Security Certification Program
  - 6.2 Documenting Security Controls in the Security Design Plan (SDP)
    - 6.2.1 When the SDP is Required
  - 6.3 The Certification Process
  - 6.4 The Compliance Review Program and Process
    - 6.5.1 EIEP Compliance Review Participation
  - 6.6 Scheduling the Onsite Review
7. Additional Definitions
8. Regulatory References
9. Frequently Asked Questions

## 1. Introduction

Federal standards require the Social Security Administration (SSA) to maintain oversight of the information it provides to its *Electronic Information Exchange Partners (EIEPs)*. EIEPs must protect the information with efficient and effective security controls. EIEPs are entities that have electronic information exchange agreements with the agency.

This document consistently references the concept of **Electronic Information Exchange Partners (EIEP)**; however, our **Compliance Review Questionnaire (CRQ)** and **Security Design Plan (SDP)** documents will use the terms “state agency” or “state agency, contractor(s), and agent(s)” for clarity. Most state officials and agreement signatories are not familiar with the acronym EIEP; therefore, SSA will continue to use the terms “state agency” or “state agency, contractor(s), and agent(s)” in the same manner as the Computer Matching and Privacy Protection Act (CMPPA) and Information Exchange Agreements (IEA). This allows for easier alignment and mapping back to our data exchange agreements between state agencies and SSA. It will also provide a more “user-friendly” experience for the state officials who complete these forms on behalf of their state agencies.

The objective of this document is twofold. The first is to ensure that SSA can properly certify EIEPs as compliant with SSA security standards, requirements, and procedures. The second is to ensure that EIEPs adequately safeguard electronic information provided to them by SSA.

This document helps EIEPs understand the criteria that SSA uses when evaluating and certifying the system design and security features used for electronic access to SSA-provided information. Finally, this document provides the framework and general procedures for SSA’s Security Certification and Compliance Review Programs.

The primary statutory authority that supports the information contained in this document is the **Federal Information Security Management Act (FISMA)**. FISMA became law as part of the **Electronic Government Act of 2002**. FISMA is the United States legislation that defines a comprehensive framework to protect government information, operations, and assets against natural or manufactured threats. FISMA assigned the **National Institute of Standards and Technology (NIST)**, a branch of the U.S. Department of Commerce, the responsibility to outline and define compliance with FISMA. Unless otherwise stated, all of SSA’s requirements mirror the NIST-defined management, operational, and technical controls listed in the various NIST Special Publications (SP) libraries of technical guidance documents.

To gain electronic access to SSA-provided information, under the auspices of a data exchange agreement, EIEP’s must comply with SSA’s most current **Technical System Security Requirements** (hereafter referred to as **TSSRs**) to gain access to SSA-provided information. This document is synonymous with the **Electronic Information Exchange Security Requirements and Procedures for State and**



## Exhibit E, Attachment B

**Local Agencies Exchanging Electronic Information with the Social Security Administration** in the agreements. The TSSR specifies minimally acceptable levels of security standards and controls to protect SSA-provided information. SSA maintains the TSSR as a living document—subject to change—that addresses emerging threats, new attack methods and the development of new technology that potentially places SSA-provided information at risk. EIEPs may proactively ensure their ongoing compliance to the TSSR by periodically requesting the most current version from SSA. SSA will work with EIEPs to resolve deficiencies, which result from updates to the TSSRs. SSA refers to this process as **Gap Analysis**. EIEPs may proactively ensure their ongoing compliance with the TSSRs by periodically requesting the most current TSSR package from their SSA Point of Contact (POC) from the data exchange agreement.

SSA's standard for categorization of information (Moderate) and information systems is to provide appropriate levels of security according to risk level. Additions, deletions, or modification of security controls directly affect the level of security and due diligence SSA requires EIEPs use to mitigate risks. The emergence of new threats, attack methods, and the development of new technology warrants frequent reviews and revisions to our TSSR. Consequently, EIEPs should expect SSA's TSSR to evolve in harmony with the industry.

### 2. Electronic Information Exchange (EIE) Definition

For discussion purposes herein, EIE is any electronic process in which SSA discloses information under its control to any third party for program or non-program purposes, without the specific consent of the subject individual or any agent acting on his or her behalf. EIE involves individual data transactions and data files processed within the programmatic systems of parties to electronic information sharing agreements with SSA. This includes direct terminal access (DTA) to SSA systems, batch processing, and variations thereof (e.g., online query) regardless of the systematic method used to accomplish the activity or to interconnect SSA with the EIEP.

### 3. Roles and Responsibilities

The SSA *Office of Information Security (OIS)* has agency-wide responsibility for interpreting, developing, and implementing security policy; providing security and integrity review requirements for all major SSA systems; managing SSA's fraud monitoring and reporting activities, developing and disseminating security training and awareness materials, and providing consultation and support for a variety of agency initiatives. SSA's security reviews ensure that external systems receiving information from SSA are secure and operate in a manner consistent with SSA's Information Technology (IT) security policies and in compliance with the terms of electronic data exchange agreements executed by SSA with outside entities. Within the context of SSA's security policies and the terms of the electronic data exchange

## Exhibit E, Attachment B

agreements with SSA's EIEPs, SSA exclusively conducts and brings to closure initial security certifications and triennial security compliance reviews. This includes (but not limited to) any EIEP that processes, maintains, transmits, or stores SSA-provided information in accordance with pertinent Federal requirements.

- a. The SSA Regional *Data Exchange Coordinators* (DECs) serve as a bridge between SSA and EIEPs. DECs assist in coordinating data exchange security review activities with EIEPs; (e.g., providing points of contact with state agencies, assisting in setting up security reviews, etc.) DECs are also the first points of contact for states if an employee of a state agency or an employee of a state agency's contractor or agent becomes aware of suspected or actual loss of SSA-provided information.
- b. SSA requires EIEPs to adhere to the standards, requirements, and procedures, published in this TSSR document.
  - "Personally Identifiable Information (PII)," covered under several Federal laws and statutes, refers to specific information about an individual used to trace that individual's identity. Information such as his/her name, Social Security Number (SSN), date and place of birth, mother's maiden name, or biometric records, alone, or when combined with other personal or identifying information is linkable or lined to a specific individual's medical, educational, financial, and employment information.
  - The data (last 4 digits of the SSN) that SSA provides to its EIEPs for purposes of the Help America Vote Act (HAVA) does not identify a specific individual; therefore, is not "PII" as defined by the Act.
  - Both SSA and EIEPs must remain diligent in the responsibility for establishing *appropriate* management, operational, and technical safeguards to ensure the confidentiality, integrity, and availability of its records and to protect against any anticipated threats or hazards to their security or integrity.
- c. A State Transmission/Transfer Component (STC) is an organization that performs as an electronic information conduit or collection point for one of more other entities (also referred to as a hub). An STC must also adhere to the same management, operational and technical controls as SSA and the EIEP.

**NOTE: Disclosure of Federal Tax Information (FTI) is limited to certain Federal agencies and state programs supported by federal statutes under Sections 1137, 453, and 1106 of the Social Security Act. For information regarding**

Exhibit E, Attachment B

*safeguards for protecting FTI, consult IRS Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies.*

4. General Systems Security Standards

EIEPs that request and receive information electronically from SSA must comply with the following general systems security standards concerning access to and control of SSA-provided information.

***NOTE: EIEPs may not create separate files or records comprised solely of the information provided by SSA.***

1. EIEPs must ensure that means, methods, and technology used to process, maintain, transmit, or store SSA-provided information neither prevents nor impedes the EIEP's ability to:
  - safeguard the information in conformance with SSA requirements
  - efficiently investigate fraud, data breaches, or security events that involve SSA-provided information
  - detect instances of misuse or abuse of SSA-provided information

**For example, Utilization of cloud computing may have the potential to jeopardize an EIEP's compliance with the terms of their agreement or associated systems security requirements and procedures.**

2. The EIEP must use the electronic connection established between the EIEP and SSA only in support of the current agreement(s) between the EIEP and SSA.
3. The EIEP must use the software and/or devices provided to the EIEPs only in support of the current agreement(s) between the EIEPs and SSA.
4. SSA prohibits the EIEP from modifying any software or devices provided to the EIEPs by SSA.
5. EIEPs must ensure that SSA-provided information is not processed, maintained, transmitted, or stored in or by means of data communications channels, electronic devices, computers, or computer networks located in geographic or virtual areas not subject to U.S. law.
6. EIEPs must restrict access to the information to authorized users who need it to perform their official duties.

***NOTE: Contractors and agents (hereafter referred to as contractors) of the EIEP who process, maintain, transmit, or store SSA-provided information are held to the same security requirements as employees of the EIEP. Refer to the section 'Contractors of Electronic Information Exchange Partners in the Systems Security Requirements' for additional information.***

7. EIEPs must store information received from SSA in a manner that, at all times, is

Exhibit E, Attachment B

physically and electronically secure from access by unauthorized persons.

8. The EIEP must process SSA-provided information under the immediate supervision and control of authorized personnel.
9. EIEPs must employ both physical and technological barriers to prevent unauthorized retrieval of SSA-provided information via computer, remote terminal, or other means.
10. EIEPs must have formal PII incident response procedures. When faced with a security incident, caused by malware, unauthorized access, software issues, or acts of nature, the EIEP must be able to respond in a manner that protects SSA-provided information affected by the incident.
11. EIEPs must have an active and robust security awareness program, which is mandatory for all employees who access SSA-provided information.
12. EIEPs must advise employees with access to SSA-provided information of the confidential nature of the information, the safeguards required to protecting the information, and the civil and criminal sanctions for non-compliance contained in the applicable Federal and state laws.
13. In accordance with the National Institute of Standards and Technology (NIST) Special Publication (SP) on Contingency Planning requirements and recommendations, SSA requires EIEPs to document a senior management approved Contingency plan that includes a disaster recovery plan that addresses both natural disaster and cyber-attack situations.
14. SSA requires the Contingency Plan to include details regarding the organizational business continuity plan (BCP) and a business impact analyses (BIA) that address the security of SSA-provided information if a disaster occurs.
15. At its discretion, SSA or its designee must have the option to conduct onsite security reviews or make other provisions, to ensure that EIEPs maintain adequate security controls to safeguard the information we provide.

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## 5. Systems Security Requirements

### 5.1 Overview

SSA's TSSR represent the current industry standard for security controls, safeguards, and countermeasures required for Federal information systems by Federal regulations, statutes, standards, and guidelines. Additionally, SSA's TSSR includes organizationally defined interpretations, policies, and procedures mandated by the authority of the Commissioner of Social Security in areas when or where other cited authorities may be silent or non-specific.

SSA must certify that the EIEP has implemented security controls that meet the requirements and work as intended, before the authorization to initiate transactions to and from SSA, through batch data exchange processes or online processes such as State Online Query (SOLQ) or Internet SOLQ (SOLQ-I).

The TSSR address management, operational, and technical controls regarding security safeguards to ensure only authorized disclosure and usage of SSA provided information used, maintained, transmitted, or stored by SSA's EIEPs. SSA requires EIEPs to maintain an organizational access control structure that adheres to a three-tiered best practices model. The SSA recommended model is "separation of duties," "need-to-know" and "least privilege."

SSA requires EIEPs to document and notify SSA prior to sharing SSA-provided information with another state entity, or to allow them direct access to their system. **This includes (but not limited to) law enforcement, other state agencies, and state organizations that perform audit, quality, or integrity functions.**

SSA recommends that the EIEP develop and publish a comprehensive Information Technology (IT) Systems Security Policy document that specifically addresses:

- 1) the classification of information processed and stored within the network,
- 2) management, operational, and technical controls to protect the information stored and processed within the network,
- 3) access to the various systems and subsystems within the network,
- 4) Security Awareness Training,

Exhibit E, Attachment B

- 5) Employee and End User Sanctions Policy,
- 6) Contingency Planning and Disaster Recovery
- 7) Incident Response Policy, and
- 8) The disposal of protected information and sensitive documents derived from the system or subsystems on the network.

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Exhibit E, Attachment B

**5.2 General System Security Design and Operating Environment  
(Planning (PL) Family – (System Security Plan), Contingency Plan (CP)  
Family, Physical and Environmental (PE) Family,  
NIST SP 800-53 rev. 4)**

In accordance with the NIST suite of Special Publications (SP) (e.g., 800-53, 800-34, etc.), SSA requires the EIEP to maintain policies, procedures, descriptions, and explanations of their overall system design, configuration, security features, and operational environment. They should include explanations of how they conform to SSA's TSSRs. The EIEPs General System Security design and Operating Environment must also address:

- a) the operating environment(s) in which the EIEP will utilize, maintain, store, and transmit SSA-provided information,
- b) the business process(es) in which the EIEP will use SSA-provided information,
- c) the physical safeguards employed to ensure that unauthorized personnel, the public or visitors to the agency cannot access SSA-provided information,
- d) details of how the EIEP keeps audit information pertaining to the use and access to SSA-provided information and associated applications readily available,
- e) electronic safeguards, methods, and procedures for protecting the EIEP's network infrastructure and for protecting SSA-provided information while in transit, in use within a process or application, and at rest ,
- f) a senior management approved Information System Contingency Plan (ISCP) that addresses both internal and external threats. SSA requires the ISCP to include details regarding the organizational business continuity plan (BCP) and a business impact analyses (BIA) that addresses the security of SSA-provided information if a disaster occurs. SSA recommends that state agencies perform disaster exercises at least once annually.,

Exhibit E, Attachment B

- g) how the EIEP prevents unauthorized retrieval of SSA-provided information by computer, remote terminal, or other means; including descriptions of security software other than access control software (e.g., security patch and anti-malware software installation and maintenance, etc.)
- h) how the configurations of devices (e.g., servers, workstations, portable devices) involving SSA-provided information complies with recognized industry standards (i.e. NIST SP's) and SSA's TSSR, and
- i) organizational structure of the agency, number of users, and all external entities that will have access to the system and/or application that displays, transmits, and/or application that displays, transmits and/or stores SSA-provided information.

Note: At its discretion, SSA or a third party (i.e. contractor) must have the option to conduct onsite security reviews or make other provisions, to ensure that EIEPs maintain adequate security controls to safeguard the information we provide.

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**5.3 System Access Control**  
*(Access Control (AC) Family, NIST SP 800-53 rev. 4)*

EIEPs must utilize and maintain technological (logical) access controls that limit access to SSA-provided information and associated transactions and functions to only those users, processes acting on behalf of authorized users, or devices (including other information systems) authorized for such access based on their official duties or purpose(s). EIEPs must employ a recognized user-access security software package (e.g., RAC-F, ACF-2, TOP SECRET, Active Directory, etc.) or a security software design, which is equivalent to such products. The access control software must employ and enforce (1) PIN/password, and/or (2) PIN/biometric identifier, and/or (3) SmartCard/biometric identifier, etc., (for authenticating users), (and lower case letters, numbers, and special characters; password phrases) for the user accounts of persons, processes, or devices whose functions require access privileges in excess of those of ordinary users.

The EIEP's password policies must require stringent password construction as supported by current NIST guidelines for the user accounts of persons, processes, or devices whose functions require access privileges above those of ordinary users. **SSA strongly recommends Two-Factor Authentication.**

The EIEP's implementation of the control software must comply with recognized industry standards. Password policies should enforce sufficient construction strength (length and complexity) to defeat or minimize risk-based identified vulnerabilities and ensure limitations for password repetition. Technical controls should enforce periodic password changes based on a risk-based standard (e.g., maximum password age of 90 days, minimum password age of 3 – 7 days) and enforce automatic disabling of user accounts that have been inactive for a specified period of time (e.g., 90 days).

The EIEP's password policies must require stringent password construction (e.g., passwords greater than eight characters in length requiring upper and lower case letters, numbers, and/or special characters; password phrases) for the user accounts of persons, processes, or devices whose functions require access privileges in excess of those of ordinary users.

## Exhibit E, Attachment B

In addition, SSA has the following specific requirements in the area of Access Control:

1. Upon hiring or before granting access to SSA-provided information, EIEPs should verify the identities of any employees, contractors, and agents who will have access to SSA-provided information in accordance with the applicable agency or state's "personnel identity verification policy."
2. SSA requires that state agencies have a logical control feature that designates a maximum number of unsuccessful login attempts for agency workstations and devices that store or process SSA-provided information, in accordance with NIST guidelines. SSA recommends no fewer than three (3) and no greater than five (5)..
3. SSA requires that the state agency designate specific official(s) or functional component(s) to issue PINs, passwords, biometric identifiers, or Personal Identity Verification (PIV) credentials to individuals who will access SSA-provided information. **SSA also requires that the state agency prohibit any functional component(s) or official(s) from issuing credentials or access authority to themselves or other individuals within their job-function or category of access.**
4. SSA requires that EIEPs grant access to SSA-provided information based on least privilege, need-to-know, and separation of duties. State agencies should not routinely grant employees, contractors, or agents access privileges that exceed the organization's business needs. SSA also requires that EIEPs periodically review employees, contractors, and agent's system access to determine if the same levels and types of access remain applicable.
5. If an EIEP employee, contractor, or agent is subject to an adverse administrative action by the EIEP (e.g., reduction in pay, disciplinary action, termination of employment), SSA recommends the EIEP remove his or her access to SSA-provided information in advance of the adverse action to reduce the possibility that will the employee will perform unauthorized activities that involve SSA-provided information.

## Exhibit E, Attachment B

6. SSA requires that work-at-home, remote access, and/or Internet access comply with applicable Federal and state security policy and standards. Furthermore, the EIEPs access control policy must define the safeguards in place to adequately protect SSA-provided information for work-at-home, remote access, and/or Internet access.
  
7. SSA requires EIEPs to design their system with logical control(s) that prevent unauthorized browsing of SSA-provided information. SSA refers to this setup as a **Permission Module**. The term "**Permission Module**" supports a business rule and systematic control that prevents users from browsing a system that contains SSA-provided information. It also supports the principle of **referential integrity**. It should prevent non-business related or unofficial access to SSA-provided information. Before a user or process requests SSA-provided information for verification, the system should verify it is an authorized transaction. Some organizations use the term "referential integrity" to describe the verification step. A properly configured Permission Module should prevent a user from performing any actions not consistent with a need-to-know business process. If a logical permission module configuration is not possible, the state agency must enforce its Access Control List (ACL) in accordance with the principle of least privilege. **The only acceptable compensating control for a system that lacks a permission module is a 100% review of all transactions that involve SSA-provided information.**

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#### 5.4 Automated Audit Trail

*(Audit and Accountability (AU) Family, NIST.SP 800-53 rev. 4)*

SSA requires EIEPs, and other STCs or agencies that provide audit trail services to other state agencies that receive information electronically from SSA, to implement and maintain a fully automated audit trail system (ATS). The system must be capable of creating, storing, protecting, and (efficiently) retrieving and collecting records identifying the individual user who initiates a request for information from SSA or accesses SSA-provided information. At a minimum, individual audit trail records must contain the data needed (including date and time stamps) to associate each query transaction or access to SSA-provided information with its initiator, their action, if any, and the relevant business purpose/process (e.g., SSN verification for Medicaid). Each entry in the audit file must be stored as a separate record, not overlaid by subsequent records. The ATS must create transaction files to capture all input from interactive internet applications that access or query SSA-provided information.

SSA requires that the agency's ATS create an audit record when users view screens that contain SSA-provided information. If an STC handles and audits the EIEP's transactions with SSA, the EIEP is responsible for ensuring that the STC's audit capabilities meet NIST's guidelines for an automated audit trail system. The EIEP must also establish a process to obtain specific audit information from the STC regarding the EIEP's SSA transactions.

SSA requires that EIEPs have automated retrieval and collection of audit records. Such automated functions can be via online queries, automated reports, batch processing, or any other logical means of delivering audit records in an expeditious manner. Information in the audit file must be retrievable by an automated method and must allow the EIEP the capability to make them available to SSA upon request.

Access to the audit file must be restricted to authorized users with a "need to know," audit file data must be unalterable (read-only), and maintained for a minimum of three (3) (preferably seven (7)) years. Information in the audit file must be retrievable by an automated method and must allow the EIEP the capability to make them available to SSA upon request. The EIEP must backup audit trail records on a regular basis to ensure its availability. EIEPs must apply the same level of protection to backup audit files that apply to the original files to ensure the integrity of the data.

Exhibit E, Attachment B

If the EIEP retains SSA-provided information in a database (e.g., Access database, SharePoint, etc.), or if certain data elements within the EIEP's system indicates to users that SSA verified the information, the EIEP's system must also capture an audit trail record of users who view SSA-provided information stored within the EIEP's system. The retrieval requirements for SSA-provided information at rest and the retrieval requirements for regular transactions are identical. **Similar to the Permission Module requirement above, the only acceptable compensating control for a system that lacks an Automated Audit Trail System (ATS) is a 100% review of all transactions that involve SSA-provided information.**

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### 5.5 Personally Identifiable Information (PII)

*(The Privacy Act of 1974, E-Government Act of 2002 (P.L. 107-347), and AP Family – Authority and Purpose (Privacy Controls), NIST SP 800-53 rev. 4)*

**Personally Identifiable Information (PII)** is information used to distinguish or trace an individual's identity, such as their name, Social Security Number, biometric records, alone or when combined with other personal or identifying information linked or linkable to a specific individual. An item such as date and place of birth, mother's maiden name, or father's surname is PII, regardless of whether combined with other data.

SSA defines a **PII loss** as a circumstance when an EIEP employee, contractor, or agent has reason to believe that information on hard copy or in electronic format, which contains PII provided by SSA, left the EIEP's custody or the EIEP disclosed it to an unauthorized individual or entity. PII loss is a reportable incident. SSA requires that contracts for periodic disposal/destruction of case files or other print media contain a non-disclosure agreement signed by all personnel who will encounter products that contain SSA-provided information.

If a PII loss involving SSA-provided information occurs or is suspected, the EIEP must be able to quantify the extent of the loss and compile a complete list of the individuals potentially affected by the incident (refer to **Incident Reporting**).

The EIEP should have procedural documents to describe methods and controls for safeguarding SSA-provided PII while in use, at rest, during transmission, or after archiving. The document should explain how the EIEP manages and handles SSA-provided information on print media and explain how the methods and controls conform to NIST requirements. SSA requires that printed items that contain SSA-provided PII always remain in the custody of authorized EIEP employees, contractors, or agents. SSA also requires that the agency destroy the items when no longer required for the EIEP's business process. If retained in paper files for evidentiary purposes, the EIEP should safeguard such PII in a manner that prevents unauthorized personnel from accessing such materials. All agencies that receive SSA-provided information must maintain an inventory of all documents that outline statewide or agency policy and procedures regarding the same.

## 5.6 Monitoring and Anomaly Detection

*(Information Security Continuous Monitoring (ISCM) for Federal Information Systems and Organizations, NIST SP 800-137, E-Government Act of 2002 (P.L. 107-347), and Security Assessment and Authorization (CA) and Risk Assessment (RA) Families, NIST SP 800-53 rev. 4)*

**SSA requires that the EIEPs use an Intrusion Protection System (IPS) or an Intrusion Detection System (IDS).** The EIEP must establish and/or maintain continuous monitoring of its network infrastructure and assets to ensure that:

- 1) the EIEP's security controls continue to be effective over time,
- 2) the EIEP uses industry-standard Security Information Event Manager (SIEM) tools, anti-malware software, and effective antivirus protection,
- 3) only authorized individuals, devices, and processes have access to SSA-provided information,
- 4) the EIEP detects efforts by external and internal entities, devices, or processes to perform unauthorized actions (e.g., data breaches, malicious attacks, access to network assets, software/hardware installations, etc.) as soon as they occur,
- 5) the necessary parties are immediately alerted to unauthorized actions performed by external and internal entities, devices, or processes,
- 6) upon detection of unauthorized actions, measures are immediately initiated to prevent or mitigate associated risk,
- 7) in the event of a data breach or security incident, the EIEP can efficiently determine and initiate necessary remedial actions, and
- 8) trends, patterns, or anomalous occurrences and behavior in user or network activity that may be indicative of potential security issues are readily discernible.

## Exhibit E, Attachment B

The EIEP's system must include the capability to prevent users from unauthorized browsing of SSA records. SSA requires the use of a transaction-driven **permission module design**, whereby employees are unable to initiate transactions not associated with the normal business process. If the EIEP uses such a design, they also must have anomaly detection to monitor an employee's unauthorized attempts to gain access to SSA-provided information and attempts to obtain information from SSA for clients not in the EIEP's client system. The EIEP should employ measures to ensure the permission module's integrity. Users should not be able to create a bogus case and subsequently delete it in such a manner that it goes undetected. The SSA permission module design employs both role and rules based logical access control restrictions. (Refer to *Access Control*)

If the EIEP's design *does not use* a permission module *and* is not transaction-driven, until at least one of these security features exists, the EIEP must develop and implement **compensating security controls** to deter employees from browsing SSA records. These controls must include monitoring and anomaly detection features, such as: systematic, manual, or a combination thereof. Such features must include the capability to detect anomalies in the volume and/or type of transactions or queries requested or initiated by individuals and include systematic or manual procedures for verifying that requests and queries of SSA-provided information comply with valid official business purposes.

### **Risk Management Program**

**SSA recommends that EIEPs develop and maintain a published Risk Assessment Policy and Procedures document. A Risk Management Program may include, but is not limited to the following:**

1. A risk assessment policy that addresses purpose, scope, roles, responsibilities, management commitment, coordination among organizational entities, and compliance,
2. Procedures to facilitate the implementation of the risk assessment policy and associated risk assessment controls,
3. A function that conducts an assessment of risk, including the likelihood and magnitude of harm, from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information system and the information it processes, stores, or transmits,
4. An independent function that conducts vulnerability and risk assessments, reviews risk assessment results, and disseminates such information to senior management,
5. A firm commitment from senior management to update the risk assessment whenever there are significant changes to the information



Exhibit E, Attachment B

system or environment of operation or other conditions that may affect the security of SSA-provided information,

6. A robust vulnerability scanning protocol that employs industry standard scanning tools and techniques that facilitate interoperability among tools and automates parts of the vulnerability management process,
7. Remediates legitimate vulnerabilities in accordance with an organizational assessment of risk, and
8. Shares information obtained from the vulnerability scanning process and security control assessments with senior management to help eliminate similar vulnerabilities in other information systems that receive, process, transmit, or store SSA-provided information.

**Note:** The EIEP's decision to initiate or maintain an official Risk Management Program and establish a formal Risk Assessment Strategy for mitigating risk is strictly voluntary, but highly recommended by SSA.

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## Exhibit E, Attachment B

### 5.7 Management Oversight and Quality Assurance

*(The Privacy Act of 1974, E-Government Act of 2002 (P.L. 107-347), and the AC – Access Control & PM – Program Management Families, NIST SP 800-53 rev. 4)*

SSA requires the EIEP to establish and/or maintain ongoing management oversight and quality assurance capabilities to ensure that only authorized users have access to SSA-provided information. This will ensure there is ongoing compliance with the terms of the EIEP's electronic information sharing agreement with SSA and the TSSRs established for access to SSA-provided information. The entity responsible for management oversight should consist of one or more of the EIEP's management officials whose job functions include responsibility to ensure that the EIEP only grants access to the appropriate users and position types (least privilege), which require the SSA-provided information to do their jobs (need-to-know).

SSA requires the EIEP to ensure that users granted access to SSA-provided information receive adequate training on the sensitivity of the information, associated safeguards, operating procedures, and the civil and criminal consequences or penalties for misuse or improper disclosure.

SSA requires that EIEPs establish the following job functions and require that only users whose job functions are separate from personnel who request or use SSA-provided information.

**SSA requires that EIEPs establish the following job functions separate from personnel who request or use SSA-provided information.**

- a) Perform periodic self-reviews to monitor the EIEP's ongoing usage of SSA-provided information.
- b) Perform random sampling of work activity that involves SSA-provided information to determine if the access and usage comply with SSA's requirements

SSA requires the EIEP's system to produce reports that allow management and/or supervisors to monitor user activity. The EIEP must have a process for distributing these monitoring and exception reports to appropriate local managers/supervisors or to local security officers. The process must ensure that only those whose responsibilities include monitoring anomalous activity of users, to include those who have exceptional system rights and privileges, use the reports.

## Exhibit E, Attachment B

1. **User ID Exception Reports:**

This type of report captures information about users who enter incorrect user IDs when attempting to gain access to the system or to a transaction that initiates requests for information from SSA, including failed attempts to enter a password.

2. **Inquiry Match Exception Reports:**

This type of report captures information about users who initiate transactions for SSNs that have no client case association within the EIEP's system **(the EIEP's management must review 100% of these cases)**.

3. **System Error Exception Reports:**

This type of report captures information about users who may not understand or may be violating proper procedures for access to SSA-provided information.

4. **Inquiry Activity Statistical Reports:**

This type of report captures information about transaction usage patterns among authorized users and is a tool that enables the EIEP's management to monitor typical usage patterns in contrast to extraordinary usage patterns.

**The EIEP must have a process for distributing these monitoring and exception reports to appropriate local managers/supervisors or to local security officers. The process must ensure that only those whose responsibilities include monitoring anomalous activity of users, to include those who have exceptional system rights and privileges, use the reports.**

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## 5.8 Data and Communications Security

*(The Privacy Act of 1974, E-Government Act of 2002 (P.L. 107-347), and the Access Control (AC), Configuration Management (CM), Media Protection (MP), and System and Communication (SC) Families, NIST SP 800-53 rev. 4)*

SSA requires EIEPs to encrypt PII and SSA-provided information when transmitting across dedicated communications circuits between its systems, intrastate communications between its local office locations, and on the EIEP's mobile computers, devices and removable media. The EIEP's encryption methods must align with the Guidelines established by the National Institute of Standards and Technology (NIST). SSA recommends the Advanced Encryption Standard (AES) or Triple DES (Data Encryption Standard 3). **Files encrypted for external users (when using tools such as Microsoft Word encryption,) require a key length of at least nine characters.** SSA recommends that the key (also referred to as a password) contain both special characters and numbers. SSA supports the NIST Guidelines that requires the EIEP deliver the key so that it does not accompany the media. The EIEP must secure the key when not in use or unattended.

SSA discourages the use of the public Internet for transmission of SSA-provided information. If, however, the EIEP uses the public Internet or other electronic communications, such as emails and faxes to transmit SSA-provided information, they must use a secure encryption protocol such as Secure Socket Layer (SSL) or Transport Layer Security (TLS). SSA also recommends 256-bit encryption protocols or more secure methods such as Virtual Private Network technology. The EIEP should only send data to a secure address or device to which the EIEP can control and limit access to only specifically authorized individuals and/or processes. **SSA recommends that EIEPs use Media Access Control (MAC) Filtering and Firewalls to protect access points from unauthorized devices attempting to connect to the network.**

EIEPs should not retain SSA-provided information any longer than business purpose(s) dictate. The IEA with SSA stipulates a time for data retention. The EIEP should delete, purge, destroy, or return SSA-provided information when the business purpose for retention no longer exists.

The EIEP may not save or create separate files comprised solely of information provided by SSA. The EIEP may apply specific SSA-provided information to the EIEP's matched record from a preexisting data source. Federal law prohibits duplication and redisclosure of SSA-provided information without written approval from SSA.

## Exhibit E, Attachment B

This prohibition applies to both internal and external sources who do not have a “need-to-know.” SSA recommends that EIEPs use either **Trusted Platform Module (TPM)** or **Hardware Security Module (HSM)** technology solutions to encrypt data at rest on hard drives and other data storage media.

SSA requires EIEPs to prevent unauthorized disclosure of SSA-provided information after they complete processing and after the EIEP no longer requires the information. The EIEP’s operational processes must ensure that no residual SSA-provided information remains on the hard drives of user’s workstations after the user exits the application(s) that use SSA-provided information. If the EIEP must send a computer, hard drive, or other computing or storage device offsite for repair, the EIEP must have a non-disclosure clause in their contract with the vendor. If the EIEP used the item in connection with a business process that involved SSA-provided information and the vendor will retrieve or may view SSA-provided information during servicing, SSA reserves the right to inspect the EIEP’s vendor contract. The EIEP must remove SSA-provided information from electronic devices before sending it to an external vendor for service. SSA expects the EIEP to render SSA-provided information unrecoverable or destroy the electronic device if they do not need to recover the information. The same applies to excessed, donated, or sold equipment placed into the custody of another organization.

To sanitize media, the EIEP should use one of the following methods:

1. **Overwriting/Clearing:**

Overwrite utilities can only be used on working devices. Overwriting is appropriate only for devices designed for multiple reads and writes. The EIEP should overwrite disk drives, magnetic tapes, floppy disks, USB flash drives, and other rewriteable media. The overwrite utility must completely overwrite the media. SSA recommends the use of **purging** media sanitization to make the data irretrievable, protecting data against laboratory attacks or forensics. Reformatting the media does not overwrite the data.

2. **Degaussing:**

Degaussing is a sanitization method for magnetic media (e.g., disk drives, tapes, floppies, etc.). Degaussing is not effective for purging non-magnetic media (e.g., optical discs). SSA and NIST Guidelines require EIEP to use a certified tool designed to degauss each particular type of media. NIST guidelines require certification of the tool to ensure that the magnetic flux applied to the media is strong enough to render the information irretrievable. The degaussing process must render data on the media irretrievable by a laboratory attack or laboratory forensic procedures.

## Exhibit E, Attachment B

### 3. Physical destruction:

NIST guidelines require physical destruction when degaussing or overwriting cannot be accomplished (for example, CDs, floppies, DVDs, damaged tapes, hard drives, damaged USB flash drives, etc.). Examples of physical destruction include shredding, pulverizing, and burning.

State agencies may retain SSA-provided information in hardcopy only if required to fulfill evidentiary requirements, provided the agencies retire such data in accordance with applicable state laws governing state agency's retention of records. The EIEP must control print media containing SSA-provided information to restrict access to authorized employees who need such access to perform official duties. EIEPs must destroy print media containing SSA-provided information in a secure manner when no longer required for business purposes. SSA requires the EIEP to destroy paper documents that contain SSA-provided information by burning, pulping, shredding, macerating, or other similar means that ensure the information is unrecoverable.

State agencies may use any accretions, deletions, or changes to the SSA-provided information governed by the CMPPA agreement to update their master files or federally funded state-administered benefit program applicants and recipients and retain such master files in accordance with applicable state laws governing State Agencies' retention of records.

***NOTE: Hand tearing or lining through documents to obscure information does not meet SSA's requirements for appropriate destruction of PII.***

The EIEP must employ measures to ensure that communications and data furnished to SSA contain no viruses or other malware.

#### ***Special Note regarding Cloud Service Providers:***

If the EIEP will store SSA-provided information through a Cloud Service Provider, please provide the name and address of the cloud provider. Describe the security responsibilities the contract requires to protect SSA-provided information.

SSA will ask for detailed descriptions of the security features contractually required of the cloud provider and information regarding how they will protect SSA-provided information at rest and when in transit.

**EIEPs cannot legally process, transmit, or store SSA-provided information in a cloud environment without explicit permission from SSA's Chief Information Officer.**

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Exhibit E, Attachment B

**5.9 Incident Reporting**

*(The Privacy Act of 1974, E-Government Act of 2002 (P.L. 107-347), and the Incident Response (IR) Family, NIST SP 800-53 rev. 4)*

FISMA, NIST Guidelines, and Federal Law require the EIEP to develop and implement policies and procedures to respond to potential data breaches or PII losses. EIEPs must articulate, in writing, how the policies and procedures conform to SSA's requirements. The procedures must include the following information:

*If your agency experiences or suspects a breach or loss of PII or a security incident, which includes SSA-provided information, they must notify the State official responsible for Systems Security designated in the agreement. That State official or delegate must then notify the SSA Regional Office Contact or the SSA Systems Security Contact identified in the agreement. If, for any reason, the responsible State official or delegate is unable to notify the SSA Regional Office or the SSA Systems Security Contact within one hour, the responsible State Agency official or delegate must report the incident by contacting SSA's National Network Service Center (NNSC) toll free at 877-697-4889 (select "Security and PII Reporting" from the options list). The EIEP will provide updates as they become available to SSA contact, as appropriate. Refer to the worksheet provided in the agreement to facilitate gathering and organizing information about an incident.*

If SSA, or another Federal investigating entity (e.g. TIGTA or DOJ), determines that the risk presented by a breach or security incident requires that the state agency notify the subject individuals, the agency must agree to absorb all costs associated with notification and remedial actions connected to security breaches. **SSA and NIST Guidelines encourage agencies to consider establishing incident response teams to address PII and SSA-provided information breaches.**

Incident reporting policies and procedures are part of the security awareness program. Incident reporting pertains to all employees, contractors, or agents regardless as to whether they have direct responsibility for contacting SSA. The written policy and procedures document should include specific names, titles, or functions of the individuals responsible for each stage of the notification process. The document should include detailed instructions for how, and to whom each employee, contractor, or agent should report the potential breach or PII loss.

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## Exhibit E, Attachment B

### 5.10 Security Awareness Training and User Sanctions

*(The Privacy Act of 1974, E-Government Act of 2002 (P.L. 107-347), and Awareness and Training (AT), Personnel Security (PS), and Program Management (PM) Families, NIST SP 800-53 rev. 4)*

The EIEP must have an active and robust security awareness program and security training for all employees, contractors, and agents who access SSA-provided information. The training and awareness programs must include:

- a. the sensitivity of SSA-provided information and addresses the Privacy Act and other Federal and state laws governing its use and misuse,
- b. the rules of behavior concerning use and security in systems and/or applications processing SSA-provided information,
- c. the restrictions on viewing and/or copying SSA-provided information,
- d. the responsibilities of employees, contractors, and agent's pertaining to the proper use and protection of SSA-provided information,
- e. the proper disposal of SSA-provided information,
- f. the security breach and data loss incident reporting procedures,
- g. the basic understanding of procedures to protect the network from malware attacks,
- h. spoofing, phishing and pharming, and network fraud prevention, and
- i. the possible criminal and civil sanctions and penalties for misuse of SSA-provided information.

SSA requires the EIEP to provide security awareness training to all employees, contractors, and agents who access SSA-provided information. The training should be annual, mandatory, and certified by the personnel who receive the training. SSA also requires the EIEP to certify that each employee, contractor, and agent who views SSA-provided information certify that they understand the potential criminal, civil, and administrative sanctions or penalties for unlawful assess and/or disclosure.



## Exhibit E, Attachment B

SSA requires the EIEP to provide security awareness training to all employees, contractors, and agents who access SSA-provided information. The training should be annual, mandatory, and certified by the personnel who receive the training. SSA also requires the EIEP to certify that each employee, contractor, or agent who views SSA-provided information also certify that they understand the potential criminal and administrative sanctions or penalties for unlawful disclosure. SSA requires the state agency to require employees, contractors, and agents to sign a non-disclosure agreement, attest to their receipt of Security Awareness Training, and acknowledge the rules of behavior concerning proper use and security in systems that process SSA-provided information. The non-disclosure attestation must also include acknowledgement from each employee, contractor, and agent that he or she understands and accepts the potential criminal and/or civil sanctions or penalties associated with misuse or unauthorized disclosure of SSA-provided information. The state agency must retain the non-disclosure attestations for at least five (5) to seven (7) years for each individual who processes, views, or encounters SSA-provided information as part of their duties.

SSA strongly recommends the use of login banners, emails, posters, signs, memoranda, special events, and other promotional materials to encourage security awareness throughout your enterprise.

The state agency must designate a department or party to take the responsibility to provide ongoing security awareness training for all employees, contractors, and agents who access SSA-provided information. Training must include:

- The sensitivity of SSA-provided information and address the Privacy Act and other Federal and state laws governing its use and misuse
- Rules of behavior concerning use and security in systems processing SSA-provided information
- Restrictions on viewing and/or copying SSA-provided information
- The employee, contractor, and agent's responsibility for proper use and protection of SSA-provided information
- Proper disposal of SSA-provided information
- Security incident reporting procedures
- Basic understanding of procedures to protect the network from malware attacks

**Exhibit E, Attachment B**

- **Spoofing, Phishing and Pharming scam prevention**
- **The possible sanctions and penalties for misuse of SSA-provided information**

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**5.11 Contractors of Electronic Information Exchange Partners**  
*(The Privacy Act of 1974, E-Government Act of 2002 (P.L. 107-347), and Risk Assessment (RA), System and Services Acquisition (SA), Awareness and Training (AT), Personnel Security (PS), and Program Management (PM) Families, NIST SP 800-53 rev. 4)*

The state agency's employees, contractors, and agents who access, use, or disclose SSA data in a manner or purpose not authorized by the Agreement may be subject to both civil and criminal sanctions pursuant to applicable Federal statutes. The state agency will provide its contractors and agents with copies of the Agreement, related IEAs, and all related attachments before initial disclosure of SSA data to such contractors and agents. Prior to signing the Agreement, and thereafter at SSA's request, the state agency will obtain from its contractors and agents a current list of the employees of such contractors and agents with access to SSA data and provide such lists to SSA.

Contractors of the state agency must adhere to the same security requirements as employees of the state agency. The state agency is responsible for the oversight of its contractors and the contractor's compliance with the security requirements. The state agency must enter into a written agreement with each of its contractors and agents who need SSA data to perform their official duties. Such contractors or agents agree to abide by all relevant Federal laws, restrictions on access, use, disclosure, and the security requirements contained within the state agency's agreement with SSA.

The state agency must provide proof of the contractual agreement with all contractors and agents who encounter SSA-provided information as part of their duties. If the contractor processes, handles, or transmits information provided to the state agency by SSA or has authority to perform on the state agency's behalf, the state agency should clearly state the specific roles and functions of the contractor within the agreement. The state agency will provide SSA written certification that the contractor is meeting the terms of the agreement, including SSA security requirements. The service level agreements with the contractors and agents must contain non-disclosure language as it pertains to SSA-provided information.

The state agency must also require that contractors and agents who will process, handle, or transmit information provided to the state agency by SSA to include language in their signed agreement that obligates the contractor to follow the terms of the state agency's data exchange agreement with SSA. The state agency must also make certain that the contractor and agent's employees receive the same security awareness training as the state agency's employees. The state agency, the contractor, and the agent should maintain awareness-training records for their employees and require the same mandatory annual

Exhibit E, Attachment B

certification procedures.

SSA requires the state agency to subject the contractor to ongoing security compliance reviews that must meet SSA standards. The state agency will conduct compliance reviews at least triennially commencing no later than three (3) years after the approved initial security certification to SSA. The state agencies will provide SSA with documentation of their recurring compliance reviews of their contractors and agents. The state agencies will provide the documentation to SSA during their scheduled compliance and certification reviews or upon SSA's request.

If the state agency's contractor will be involved with the processing, handling, or transmission of information provided to the EIEP by SSA offsite from the EIEP, the EIEP must have the contractual option to perform onsite reviews of that offsite facility to ensure that the following meet SSA's requirements:

- a) safeguards for sensitive information,
- b) technological safeguards on computer(s) that have access to SSA-provided information,
- c) security controls and measures to prevent, detect, and resolve unauthorized access to, use of, and redisclosure of SSA-provided information, and
- d) continuous monitoring of the EIEP contractors or agent's network infrastructures and assets.

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## Exhibit E, Attachment B

### 5.12 Cloud Service Providers (CSP) for Electronic Information Exchange Partners

*(NIST SP 800-144, NIST SP 800-145, NIST SP 800-146, OMB Memo M-14-03, NIST SP 137)*

The National Institute of Standards and Technology (NIST) Special Publication (SP) 800-145 defines Cloud Computing as “a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. This cloud model is composed of five essential characteristics, three service models, and four deployment models.” The three service models, as defined by NIST SP 800-145 are Software as a Service (SaaS), Platform as a Service (PaaS), and Infrastructure as a Service (IaaS). The Deployment models are Private Cloud, Community Cloud, Public Cloud, and Hybrid Cloud. Furthermore, The Federal Risk and Authorization Program (FedRAMP) is a risk management program that provides a standardized approach for assessing and monitoring the security of cloud products and services.

SSA requires the State Agency, contractor(s), and agent(s) to exercise due diligence to avoid hindering legal actions, warrants, subpoenas, court actions, court judgments, state or Federal investigations, and SSA special inquiries for matters pertaining to SSA-provided information.

SSA requires the State Agency, contractor(s), and agent(s) to agree that any state-owned or subcontracted facility involved in the receipt, processing, storage, or disposal of SSA-provided information operate as a “de facto” extension of the State Agency and is subject to onsite inspection and review by the State Agency or SSA with prior notice.

SSA requires that the State Agency thoroughly describe all specific contractual obligations of each party to the Cloud Service Provider (CSP) agreement between the state agency and the CSP vendor(s). If the obligations, services, or conditions widely differ from agency to agency, we require separate SDP Questionnaires to address the CSP services provided to each state agency involved in the receipt, processing, storage, or disposal of SSA-provided information.

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**6. Security Certification and Compliance Review Programs**

*(NIST SP 800-18 – System Security Plans and Planning (PL) Family, NIST SP 800-53 rev. 4)*

SSA's security certification and compliance review programs are distinct processes. The certification program is a unique episodic process when an EIEP initially requests electronic access to SSA-provided information or makes substantive changes to existing exchange protocol, delivery method, infrastructure, or platform. The certification process entails two stages (refer to 6.1 for details) intended to ensure that management, operational, and technical security measures work as designed. SSA must ensure that the EIEPs fully conform to SSA's security requirements at the time of certification and satisfy both stages of the certification process before SSA will permit online access to its data in a production environment.

The compliance review program entails cyclical security review of the EIEP performed by, or on behalf of SSA. The purpose of the review is to assess an EIEP's conformance to SSA's current security requirements at the time of the review engagement. The compliance review program applies to both online and batch access to SSA-provided information. Under the compliance review program, EIEPs are subject to ongoing and periodic security reviews by SSA.

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Exhibit E, Attachment B

**6.1 The Security Certification Program**  
*(NIST SP 800-18 – System Security Plans, Security Assessment and Authorization Controls (CA), and Planning (PL) Families, NIST SP 800-53 rev. 4)*

The security certification process applies to EIEPs that seek online electronic access to SSA-provide information and consists of two general phases:

- a) **Phase 1:** The Security Design Plan (SDP) is a formal written plan authored by the EIEP to document its management, operational, and technical security controls to safeguard SSA-provided information (refer to *Documenting Security Controls in the Security Design Plan*).

*NOTE:* SSA may have legacy EIEPs (EIEPs not certified under the current process) who have not prepared an SDP. SSA strongly recommends that these EIEPs prepare an SDP.

The EIEP's preparation and maintenance of a current SDP will aid them in determining potential compliance issues prior to reviews, assuring continued compliance with SSA's TSSRs, and providing for more efficient security reviews.

- b) **Phase 2:** The SSA Onsite Certification is a formal security review conducted by SSA, or on its behalf, to examine the full suite of management, operational, and technical security controls implemented by the EIEP to safeguard data obtained from SSA electronically (refer to *The Certification Process*).

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## 6.2 Documenting Security Controls in the SDP

*(NIST SP 800-18 – System Security Plans, Security Assessment and Authorization Controls (CA), and Planning (PL) Families, NIST SP 800-53 rev. 4)*

### 6.2.1 When an SDP is required:

**EIEPs must submit an SDP when one or more of the following circumstances apply:**

- a) to obtain approval for requested access to SSA-provided information for an initial agreement,
- b) to obtain approval to reestablish previously terminated access to SSA-provided information,
- c) to obtain approval to implement a new operating or security platform that will involve SSA-provided information,
- d) to obtain approval for significant changes to the EIEP's organizational structure, technical processes, operational environment, or security implementations planned or made since approval of their most recent SDP or of their most recent successfully completed security review,
- e) to confirm compliance when one or more security breaches or incidents involving SSA-provided information occurred since approval of the EIEP's most recent SDP or of their most recent successfully completed security review,
- f) to document descriptions and explanations of measures implemented as the result of a data breach or security incident,
- g) to document descriptions and explanations of measures implemented to resolve non-compliance issue(s), and
- h) to obtain a new approval after SSA revoked approval of the most recent SDP

SSA may require a new SDP if changes occurred (other than those listed above) that may affect the terms of the EIEP's data exchange agreement with SSA.



Exhibit E, Attachment B

*SSA will not approve the SDP or allow the initiation of transactions and/or access to SSA-provided information before the EIEP complies with the TSSRs.*

**NOTE:** EIEPs that function only as an STC, transferring SSA-provided information to other EIEPs must, per the terms of their agreements with SSA, adhere to SSA's TSSR and exercise their responsibilities regarding protection of SSA-provided information.  
(See Page 48 Definition of STC)

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### 6.3 The Certification Process

*(NIST SP 800-18 – System Security Plans, Security Assessment and Authorization Controls (CA), and Planning (PL) Families, NIST SP 800-53 rev. 4)*

Once the EIEP has successfully satisfied Phase 1, SSA will conduct an onsite certification review. The objective of the onsite review is to ensure the EIEP's management, operational, and technical controls safeguarding SSA-provided information from misuse and improper disclosure and that those safeguards function and work as intended.

At its discretion, SSA may request the EIEP to participate in an onsite review and compliance certification of their security infrastructure.

The onsite review may address any or all of SSA's security requirements and include, when appropriate:

- 1) a demonstration of the EIEP's implementation of each security requirement,
- 2) a physical review of pertinent supporting documentation to verify the accuracy of responses in the SDP,
- 3) a demonstration of the functionality of the software interface for the system that will receive, process, and store SSA-provided information,
- 4) a demonstration of the Automated Audit Trail System (ATS),
- 5) a walkthrough of the EIEP's data center to observe and document physical security safeguards,
- 6) a demonstration of the EIEP's implementation of electronic exchange of data with SSA,
- 7) a discussions with managers, supervisors, information security officers, system administrators, or other state stakeholders,
- 8) an examination of management control procedures and reports pertaining to anomaly detection or anomaly prevention,
- 9) a demonstration of technical tools pertaining to user access control and, if appropriate, browsing prevention,

Exhibit E, Attachment B

- 10) a demonstration of the permission module or similar design, to show how the system triggers requests for information from SSA,
- 11) a demonstration of how the process for requests for SSA-provided information prevents SSNs not present in the EIEP's system from sending requests to SSA.

**We may attempt to obtain information from SSA using at least one, randomly created, fictitious number not known to the EIEPs system.**

During a certification or compliance review, SSA or a certifier acting on its behalf, may request a demonstration of the EIEP's ATS and its record retrieval capability. SSA or a certifier may request a demonstration of the ATS' capability to track the activity of employees who have the potential to access SSA-provided information within the EIEP's system. The certifier may request more information from those EIEPs who use an STC to handle and audit transactions. SSA or a certifier may conduct a demonstration to see how the EIEP obtains audit information from the STC regarding the EIEP's SSA transactions.

If an STC handles and audits an EIEP's transactions, SSA requires the EIEP to demonstrate both their in-house audit capabilities and the process used to obtain audit information from the STC.

If the EIEP employs a contractor or agent who processes, handles, or transmits the EIEP's SSA-provided information offsite, SSA, at its discretion, may request to include the contractor's facility in the onsite certification review. The inspection may occur with or without a representative of the EIEP.

Upon successful completion of the onsite certification review, SSA will authorize electronic access to production data by the EIEP. SSA will provide written notification of its certification to the EIEP and all appropriate internal SSA components.

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**6.5 The Compliance Review Program and Process**  
*(NIST SP 800-18 – System Security Plans, Configuration Management (CM), Security Assessment and Authorization Controls (CA), and Planning (PL) Families, NIST SP 800-53 rev. 4)*

Similar to the certification process, the compliance review program entails a process intended to ensure that EIEPs that receive electronic information from SSA are in full compliance with the SSA's TSSRs. SSA requires EIEPs to complete and submit (based on a timeline agreed upon by SSA and EIEP's stakeholders) a Compliance Review Questionnaire (CRQ). The CRQ (similar to the SDP), describes the EIEP's management, operational, and technical controls used to protect SSA-provided information from misuse and improper disclosure. We also want to verify that those safeguards function and work as intended.

As a practice, SSA attempts to conduct compliance reviews following a 3-5 year periodic review schedule. However, as circumstances warrant, a review may take place at any time. Three prominent examples that would trigger an ad hoc review are:

- A. a significant change in the outside EIEP's computing platform,
- B. a violation of any of SSA's TSSRs, or
- C. an unauthorized disclosure of SSA-provided information by the EIEP.

SSA may conduct onsite compliance reviews and include both the EIEP's main facility and a field office.

SSA may, at its discretion, request that the EIEP participate in an onsite compliance review of their security infrastructure to confirm the implementation of SSA's security requirements.

The onsite review may address any or all of SSA's security requirements and include, where appropriate:

- D. a demonstration of the EIEP's implementation of each requirement
- E. a random sampling of audit records and transactions submitted to SSA
- F. a walkthrough of the EIEP's data center to observe and document physical security safeguards
- G. a demonstration of the EIEP's implementation of online exchange of data with SSA,

## Exhibit E, Attachment B

- H. a discussion with managers, supervisors, information security officers, system administrators, or other state stakeholders,
  - I. an examination of management control procedures and reports pertaining to anomaly detection and prevention reports,
  - J. a demonstration of technical tools pertaining to user access control and, if appropriate, browsing prevention,
  - K. a demonstration of how a permission module or similar design triggers requests for information from SSA, and
  - L. a demonstration of how a permission module prevents the EIEP's system from processing SSNs not present in the EIEP's system.
- 1) **We can accomplish this by attempting to obtain information from SSA using at least one, randomly created, fictitious number not known to the EIEP's system.**

SSA may perform an onsite or remote review for reasons including, but not limited, to the following:

- a) the EIEP has experienced a security breach or incident involving SSA-provided information
- b) the EIEP has unresolved non-compliance issue(s)
- c) to review an offsite contractor's facility that processes SSA-provided information
- d) the EIEP is a legacy organization that has not yet been through SSAs security certification and compliance review programs
- e) the EIEP requested that SSA perform an IV & V (Independent Verification and Validation review)

During the compliance review, SSA, or a certifier acting on its behalf, may request a demonstration of the system's audit trail and retrieval capability. The certifier may request a demonstration of the system's capability for tracking the activity of employees who view SSA-provided information within the EIEP's system. The certifier may request EIEPs that have STCs that handle and audit transactions with SSA to demonstrate the process used to obtain audit information from the STC.

If an STC handles and audits the EIEP's transactions with SSA, we may require the EIEP to demonstrate both their in-house audit capabilities and the processes used to

## Exhibit E, Attachment B

obtain audit information from the STC regarding the EIEP's transactions with SSA.

If the EIEP employs a contractor who will process, handle, or transmit the EIEP's SSA-provided information offsite, SSA, at its discretion, may request to include in the onsite compliance review an onsite inspection of the contractor's facility. The inspection may occur with or without a representative of the EIEP. The format of the review in routine circumstances (e.g., the compliance review is not being conducted to address a special circumstance, such as a disclosure violation, etc.) will generally consist of reviewing and updating the EIEP's compliance with the systems security requirements described above in this document. At the conclusion of the review, SSA will issue a formal report to appropriate EIEP personnel. The Compliance Report will address findings and recommendations from SSA's compliance review, which includes a plan for monitoring each issue until closure.

***NOTE: SSA will never request documentation for compliance reviews unless necessary to assess the EIEP's security posture. The information is only accessible to authorized individuals who have a need for the information as it relates to the EIEP's compliance with its electronic data exchange agreement with SSA and the associated system security requirements and procedures. SSA will not retain the EIEP's documentation any longer than required. SSA will delete, purge, or destroy the documentation when the retention requirement expires.***

Compliance Reviews are either on-site or remote reviews. High-risk reviews must be onsite reviews, medium risk reviews are usually onsite, and low risk reviews may qualify for a remote review via telephone. The past performance of the entire state determines whether a review is onsite or remote. SSA determines a state's risk level based on the "high water mark principle." If one agency is high risk, the entire state is high risk. The following is a high-level example of the analysis that aids SSA in making a preliminary determination as to which review format is appropriate. SSA may also use additional factors to determine whether SSA will perform an onsite or remote compliance review.

### A. High/Medium Risk Criteria

- 1) undocumented closing of prior review finding(s),
- 2) implementation of management, operational or technical controls that affect security of SSA-provided information (e.g. implementation of new data access method), or
- 3) a reported PII breach within the state.

## Exhibit E, Attachment B

### B. Low Risk Criteria

- 1) no prior review finding(s) or prior finding(s) documented as closed
- 2) no implementation of technical/operational controls that impact security of SSA provided
- 3) information (e.g. implementation of new data access method) no reported PII breach

#### 6.5.1 EIEP Compliance Review Participation

SSA may request to meet with the following stakeholders during the compliance review:

- a) a sample of managers, supervisors, information security officers, system administrators, etc. responsible for enforcing and monitoring ongoing compliance to security requirements and procedures to assess their level of training to monitor their employee's use of SSA-provided information, and for reviewing reports and taking necessary action
- b) the individuals responsible for performing security awareness and employee sanction functions to learn how EIEPs fulfill this requirement
- c) a sample of the EIEP's employees to assess their level of training and understanding of the requirements and potential sanctions applicable to the use and misuse of SSA-provided information
- d) the individual(s) responsible for management oversight and quality assurance functions to confirm how the EIEP accomplishes this requirement
- e) any additional individuals as deemed appropriate by SSA (i.e. analysts, Project/Program Manager, claims reps, etc.)

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## 6.6 Scheduling the Onsite Review

SSA will not schedule the onsite review until SSA approves the EIEP's SDP or the EIEPs stakeholders participating in the compliance review have agreed upon a schedule. There is no prescribed period for arranging the subsequent onsite review (*certification review* for an EIEP requesting initial access to SSA-provided information for an initial agreement or *compliance review* for other EIEPs). Unless there are compelling circumstances precluding it, the onsite review will occur as soon as reasonably possible.

The scheduling of the onsite review may depend on additional factors including:

- a) the reason for submission of an SDP or CRQ,
- b) the severity of security issues, if any,
- c) circumstances of the previous review, if any, and
- d) SSA's workload and resource considerations.

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## 7. Additional Definitions

### **Back Button:**

Refers to a button on a web browser's toolbar, the *backspace button* on a computer keyboard, a programmed keyboard button or mouse button, etc., that returns a user to a previously visited web page or application screen.

### **Breach:**

Refers to actual loss, loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where unauthorized persons have access or potential access to PII or Covered Information, whether physical, electronic, or in spoken word or recording

### **Browsing:**

Requests for or queries of SSA-provided information for purposes not related to the performance of official job duties

### **Choke Point:**

The firewall between a local network and the Internet is a choke point in network security, because any attacker would have to come through that channel, which is typically protected and monitored.

### **Cloud Computing:**

The term refers to Internet-based computing derived from the cloud drawing representing the Internet in computer network diagrams. Cloud computing providers deliver on-line and on-demand Internet services. Cloud Services normally use a browser or Web Server to deliver and store information.

### **Cloud Computing (NIST SP 800-145 Excerpt):**

Cloud computing is a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. This cloud model is composed of five essential characteristics, three service models, and four deployment models.

#### **Essential Characteristics:**

**On-demand self-service** - A consumer can unilaterally provision computing capabilities, such as server time and network storage, as needed automatically without requiring human interaction with each service provider.

**Broad network access** - Capabilities are available over the network and accessed through standard mechanisms that promote use by heterogeneous thin or thick client platforms (e.g., mobile phones, tablets, laptops, and workstations).

## Exhibit E, Attachment B

**Resource pooling** - The provider's computing resources are pooled to serve multiple consumers using a multi-tenant model, with different physical and virtual resources dynamically assigned and reassigned according to consumer demand. There is a sense of location independence in that the customer generally has no control or knowledge over the exact location of the provided resources but may be able to specify location at a higher level of abstraction (e.g., country, state, or datacenter). Examples of resources include storage, processing, memory, and network bandwidth.

**Rapid elasticity** - Capabilities can be elastically provisioned and released, in some cases automatically, to scale rapidly outward and inward commensurate with demand. To the consumer, the capabilities available for provisioning often appear to be unlimited and can be appropriated in any quantity at any time.

**Measured service** - Cloud systems automatically control and optimize resource use by leveraging a metering capability<sup>1</sup> at some level of abstraction appropriate to the type of service (e.g., storage, processing, bandwidth, and active user accounts). Resource usage can be monitored, controlled, and reported, providing transparency for both the provider and consumer of the utilized service.

### **Service Models:**

**Software as a Service (SaaS)** - The capability provided to the consumer is to use the provider's applications running on a cloud infrastructure<sup>2</sup>. The applications are accessible from various client devices through either a thin client interface, such as a web browser (e.g., web-based email), or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

**Platform as a Service (PaaS)** - The capability provided to the consumer is to deploy onto the cloud infrastructure consumer-created or acquired applications created using programming languages, libraries, services, and tools supported by the provider.<sup>3</sup> The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, or storage, but has control over the deployed applications and possibly configuration settings for the application-hosting environment.

**Infrastructure as a Service (IaaS)** - The capability provided to the consumer is to provision processing, storage, networks, and other fundamental computing resources where the consumer is able to deploy and run arbitrary software, which can include operating systems and applications. The consumer does not manage or control the underlying cloud infrastructure but has control over operating systems, storage, and deployed applications; and possibly limited control of select networking components (e.g., host firewalls).

### **Deployment Models:**

**Private cloud** - The cloud infrastructure is provisioned for exclusive use by a single organization comprising multiple consumers (e.g., business units). It may be owned, managed, and operated by the organization, a third party, or some combination of them, and it may exist on or off premises.

**Community cloud** - The cloud infrastructure is provisioned for exclusive use by a specific

## Exhibit E, Attachment B

community of consumers from organizations that have shared concerns (e.g., mission, security requirements, policy, and compliance considerations). It may be owned, managed, and operated by one or more of the organizations in the community, a third party, or some combination of them, and it may exist on or off premises.

**Public cloud** - The cloud infrastructure is provisioned for open use by the general public. It may be owned, managed, and operated by a business, academic, or government organization, or some combination of them. It exists on the premises of the cloud provider.

**Hybrid cloud** - The cloud infrastructure is a composition of two or more distinct cloud infrastructures (private, community, or public) that remain unique entities, but are bound together by standardized or proprietary technology that enables data and application portability (e.g., cloud bursting for load balancing between clouds).

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1 Typically this is done on a pay-per-use or charge-per-use basis.

2 A cloud infrastructure is the collection of hardware and software that enables the five essential characteristics of cloud computing. The cloud infrastructure can be viewed as containing both a physical layer and an abstraction layer. The physical layer consists of the hardware resources that are necessary to support the cloud services being provided, and typically includes server, storage and network components. The abstraction layer consists of the software deployed across the physical layer, which manifests the essential cloud characteristics. Conceptually the abstraction layer sits above the physical layer.

3 This capability does not necessarily preclude the use of compatible programming languages, libraries, services, and tools from other sources.

### **Cloud Drive:**

A cloud drive is a Web-based service that provides storage space on a remote server.

### **Cloud Audit:**

Cloud Audit is a specification developed at Cisco Systems, Inc. that provides cloud computing service providers a standard way to present and share detailed, automated statistics about performance and security.

### **The Federal Risk and Authorization Program (FedRAMP):**

FedRAMP is a risk management program that provides a standardized approach for assessing and monitoring the security of cloud products and services.

### **Commingling:**

Commingling is the creation of a common database or repository that stores and maintains both SSA-provided information and preexisting EIEP PII.

## Exhibit E, Attachment B

### Data Exchange:

Data Exchange is a logical transfer of information from one government entity's systems of records (SOR) to another agency's application or mainframe through a secure and exclusive connection.

### Degaussing:

Degaussing is the method of using a "special device" (i.e., a device that generates a magnetic field) in order to disrupt magnetically recorded information. Degaussing can be effective for purging damaged media and media with exceptionally large storage capacities. Degaussing is not effective for purging non-magnetic media (e.g., optical discs).

### Function:

One or more persons or organizational components assigned to serve a particular purpose, or perform a particular role. The purpose, activity, or role assigned to one or more persons or organizational components.

### Hub:

As it relates to electronic data exchange with SSA, a hub is an organization, which serves as an electronic information conduit or distribution collection point. The term Hub is interchangeable with the terms "State Transmission Component," "State Transfer Component," or "STC."

### ICON:

Interstate Connection Network (various entities use 'Connectivity' rather than 'Connection')

### IV & V:

Independent Verification and Validation

### Legacy System:

A term usually referring to a corporate or organizational computer system or network that utilizes outmoded programming languages, software, and/or hardware that typically no longer receives support from the original vendors or developers.

### Manual Transaction:

A user-initiated operation (also referred to as a "user-initiated transaction"). This is the opposite of a system-generated automated process.

**Example:** A user enters a client's information including the client's SSN and presses the "ENTER" key to acknowledge that input of data is complete. A new screen appears with multiple options, which include "VERIFY SSN" and "CONTINUE". The user has the option to verify the client's SSN or perform alternative actions.

## Exhibit E, Attachment B

### Media Sanitization:

- f) Disposal: Refers to the discarding (e.g., recycling) media that contains no sensitive or confidential data.
- g) Overwriting/Clearing: This type of media sanitization is adequate for protecting information from a robust keyboard attack. Clearing must prevent retrieval of information by data, disk, or file recovery utilities. Clearing must be resistant to keystroke recovery attempts executed from standard input devices and from data scavenging tools. For example, overwriting is an acceptable method for clearing media. Deleting items, however, is not sufficient for clearing.

This process may include overwriting all addressable locations of the data, as well as its logical storage location (e.g., its file allocation table). The aim of the overwriting process is to replace or obfuscate existing information with random data. Most rewriteable media may be cleared by a single overwrite. This method of sanitization is not possible on unwriteable or damaged media.

- h) Purging: This type of media sanitization is a process that protects information from a laboratory attack. The terms *clearing* and *purging* are sometimes synonymous. However, for some media, clearing is not sufficient for purging (i.e., protecting data from a laboratory attack). Although most re-writeable media requires a single overwrite, purging may require multiple rewrites using different characters for each write cycle.

This is because a laboratory attack involves threats with the capability to employ non-standard assets (e.g., specialized hardware) to attempt data recovery on media outside of that media's normal operating environment.

- i) Degaussing is also an example of an acceptable method for purging magnetic media. The EIEP should destroy media if purging is not a viable method for sanitization.
- Destruction: Physical destruction of media is the most effective form of sanitization. Methods of destruction include burning, pulverizing, and shredding. Any residual medium should be able to withstand a laboratory attack.

## Exhibit E, Attachment B

### Permission module:

A utility or subprogram within an application, which automatically enforces the relationship of a request for or query of SSA-provided information to an authorized process or transaction before initiating a transaction. The System will not allow a user to request information from SSA unless the EIEP's client system contains a record of the subject individual's SSN. A properly configured Permission Module also enforces referential integrity and prevents unauthorized random browsing of PII.

### Screen Scraping:

Screen scraping is normally associated with the programmatic collection of visual data from a source. Originally, screen scraping referred to the practice of reading text data from a computer display terminal's screen. This involves reading the terminal's memory through its auxiliary port, or by connecting the terminal output port of one computer system to an input port on another. The term screen scraping is synonymous with the term bidirectional exchange of data.

A screen scraper might connect to a legacy system via Telnet, emulate the keystrokes needed to navigate the legacy user interface, process the resulting display output, extract the desired data, and pass it on to a modern system.

More modern screen scraping techniques include capturing the bitmap data from a screen and running it through an optical character reader engine, or in the case of graphical user interface applications, querying the graphical controls by programmatically obtaining references to their underlying programming objects.

### Security Breach:

An act from outside an organization that bypasses or violates security policies, practices, or procedures.

### Security Incident:

A security incident happens when a fact or event signifies the possibility that a breach of security may be taking place, or may have taken place. All threats are security incidents, but not all security incidents are threats.

### Security Violation:

An act from within an organization that bypasses or disobeys security policies, practices, or procedures.

## Exhibit E, Attachment B

### **Sensitive data:**

Sensitive data is a special category of personally identifiable information (PII) that has the potential to cause great harm to an individual, government agency, or program if abused, misused, or breached. It is sensitive information protected against unwarranted disclosure and carries specific criminal and civil penalties for an individual convicted of unauthorized access, disclosure, or misuse. Protection of sensitive information usually involves specific classification or legal precedents that provide special protection for legal and ethical reasons.

### **Security Information Management (SIM):**

SIM is software that automates the collection of event log data from security devices such as firewalls, proxy servers, intrusion detection systems and anti-virus software. The SIM translates the data into correlated and simplified formats.

### **SMDS (Switched Multimegabit Data Service (SMDS):**

SMDS is a telecommunications service that provides connectionless, high-performance, packet-switched data transport. Although not a protocol, it supports standard protocols and communications interfaces using current technology.

### **SSA-provided data/information:**

Synonymous with "SSA-supplied data/information", defines information under the control of SSA provided to an external entity under the terms of an information exchange agreement with SSA. The following are examples of SSA-provided data/information:

- SSA's response to a request from an EIEP for information from SSA (e.g., date of death)
- SSA's response to a query from an EIEP for verification of an SSN

### **SSA data/information:**

This term, sometimes used interchangeably with "SSA-provided data/information," denotes information under the control of SSA provided to an external entity under the terms of an information exchange agreement with SSA. However, "SSA data/information" also includes information provided to the EIEP by a source other than SSA, but which the EIEP attests to that SSA verified it, or the EIEP couples the information with data from SSA as to to certify the accuracy of the information. The following are examples of SSA information:

- SSA's response to a request from an EIEP for information from SSA (e.g., date of death)
- SSA's response to a query from an EIEP for verification of an SSN

## Exhibit E, Attachment B

- Display by the EIEP of SSA's response to a query for verification of an SSN *and* the associated SSN provided by SSA
- Display by the EIEP of SSA's response to a query for verification of an SSN *and* the associated SSN provided to the EIEP by a source other than SSA
- Electronic records that contain only SSA's response to a query for verification of an SSN *and* the associated SSN whether provided to the EIEP by SSA or a source other than SSA

### SSN:

Social Security Number

### STC:

A State Transmission/Transfer Component is an organization, which performs as an electronic information conduit or collection point for one or more other entities (also referred to as a hub).

### System-generated transaction:

A transaction automatically triggered by an automated system process.

Example: A user enters a client's information including the client's SSN on an input screen and presses the "ENTER" key to acknowledge that input of data is complete. An automated process then matches the SSN against the organization's database and when the systems finds no match, automatically sends an electronic request for verification of the SSN to SSA.

### Systems process:

Systems Process refers to a software program module that runs in the background within an automated batch, online, or other process.

### Third Party:

Third Party pertains to an entity (person or organization) provided access to SSA-provided information by an EIEP or other SSA business partner for which one or more of the following apply:

- is not stipulated access to SSA-provided information by an information-sharing agreement between an EIEP and SSA
- has no data exchange agreement with SSA
- SSA does not directly authorize access to SSA-provided information

### Transaction-driven:

This term pertains to an automatically initiated online query of or request for SSA information by an automated transaction process (e.g., driver license issuance, etc.). The query or request will only occur the automated process meets prescribed conditions.



## Exhibit E, Attachment B

### Uncontrolled transaction:

This term pertains to a transaction that falls outside a permission module. An uncontrolled transaction is not subject to a systematically enforced relationship between an authorized process or application and an existing client record.

## 8. Regulatory References

- Federal Information Processing Standards (FIPS) Publications
- Federal Information Security Management Act of 2002 (FISMA)
- Homeland Security Presidential Directive (HSPD-12)
- National Institute of Standards and Technology (NIST) Special Publications
- Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*
- Office of Management and Budget (OMB) Circular A-130, Appendix III, *Management of Federal Information Resources*
- Office of Management and Budget (OMB) Memo M-06-16, *Protection of Sensitive Agency Information, June 23, 2006*
- Office of Management and Budget (OMB) Memo M-07-16, *Memorandum for the Heads of Executive Departments and Agencies May 22, 2007*
- Office of Management and Budget (OMB) Memo M-07-17, *Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007*
- Privacy Act of 1974, as amended

## 9. Frequently Asked Questions

(Click links for answers or additional information)

1. Q: What is a breach of data?  
A: Refer to Security Breach, Security Incident, and Security Violation.
2. Q: What is employee browsing?  
A: Requests for or queries of SSA-provided information for purposes not related to the performance of official job duties
3. Q: Okay, so the EIEP submitted the SDP. Can SSA schedule the Onsite

Exhibit E, Attachment B

Review?

A: Refer to Scheduling the Onsite Review.

4. Q: What is a "Permission Module?"

A: A utility or subprogram within an application, which automatically enforces the relationship of a request for or query of SSA-provided information to an authorized process or transaction before initiating a transaction. For example, if requests for verification of an SSN for issuance of a driver's license happens automatically from within a state driver's license application. The System will not allow a user to request information from SSA unless the EIEP's client system contains a record of the subject individual's SSN.

5. Q: What "Screen Scraping?"

A: Screen scraping is normally associated with the programmatic collection of visual data from a source. Originally, screen scraping referred to the practice of reading text data from a computer display terminal's screen. This involves reading the terminal's memory through its auxiliary port, or by connecting the terminal output port of one computer system to an input port on another. The term screen scraping is synonymous with the term bidirectional exchange of data.

A screen scraper might connect to a legacy system via Telnet, emulate the keystrokes needed to navigate the legacy user interface, process the resulting display output, extract the desired data, and pass it on to a modern system.

More modern screen scraping techniques include capturing the bitmap data from a screen and running it through an optical character reader engine, or in the case of graphical user interface applications, querying the graphical controls by programmatically obtaining references to their underlying programming objects.

6. Q: When does an EIEP have to submit an SDP?

A: Refer to When the SDP is Required.

7. Q: Does an EIEP have to submit an SDP when the agreement is renewed?

A: The EIEP does not have to submit an SDP *because* the agreement between the EIEP and SSA was renewed. There are, however, circumstances that require an EIEP to submit an SDP.

Refer to When the SDP is Required.

8. Q: Is it acceptable to save SSA-provided information with a verified indicator on a (EIEP) workstation if the EIEP uses an encrypted hard drive? If not, what options does the agency have?

A: There is no problem with an EIEP saving SSA-provided information on the encrypted hard drives of computers used to process SSA-provided information if the EIEP retains the information only as provided for in

## Exhibit E, Attachment B

the EIEP's data-sharing agreement with SSA.  
Refer to Data and Communications Security.

9. Q: Does SSA allow EIEPs to use caching of SSA-provided information on the EIEP's workstations?  
A: Caching during processing is not a problem. However, SSA-provided information must clear from the cache when the user exits the application. Refer to Data and Communications Security.
10. Q: What does the term "interconnections to other systems" mean?  
A: As used in SSA's system security requirements document, the term "interconnections" is the same as the term "connections."
11. Q: Is it acceptable to submit the SDP as a .PDF file?  
A: No, it is not. The document must remain editable.
12. Q: Should the EIEP write the SDP from the standpoint of the EIEP SVES (or applicable data element) access itself, or from the standpoint of access to all data provided to the EIEP by SSA?  
A: The SDP is to encompass the EIEP's entire electronic access to SSA-provided information as per the electronic data exchange agreement between the EIEP and SSA.  
Refer to Developing the SDP.
13. Q: If the EIEP has a "transaction-driven" system, does the EIEP still need a permission module? If employees cannot initiate a query to SSA, why would the EIEP need the permission module?  
A: "Transaction driven" means that queries submit requests automatically (and it might depend on the transaction). Depending on the system's design, queries might not be automatic or it may still permit manual transactions. A system may require manual transactions to correct an error. SSA does not prohibit manual transactions if an ATS properly tracks such transactions. If a "transaction-driven" system permits any type of alternate access, it still requires a permission module, even if it restricts users from performing manual transactions. If the system does *not* require the user to be in a particular application and/or the query to be for an existing record in the EIEP's system *before* the system will allow a query to go through to SSA, it would still need a permission module.
14. Q: What is an Onsite Compliance Review?  
A: The Onsite Compliance Review is SSA's periodic site visits to its Electronic Information Exchange Partners (EIEP) to certify whether the EIEP's management, operational, and technical security measures for protecting data obtained electronically from SSA continue to conform to the terms of the EIEP's data sharing agreements with SSA and SSA's associated system security requirements and procedures.  
Refer to the Compliance Review Program and Process.

Exhibit E, Attachment B

15. Q: What are the criteria for performing an Onsite Compliance Review?  
A: The following are criteria for performing the Onsite Compliance Review:
- EIEP initiating new access or new access method for obtaining information from SSA
  - EIEP's cyclical review (previous review was performed remotely)
  - EIEP has made significant change(s) in its operating or security platform involving SSA-provided information
  - EIEP experienced a breach of SSA-provided personally identifying information (PII)
  - EIEP has been determined to be high-risk
16. Q: What is a Remote Compliance Review?  
A: The Remote Compliance Review is when SSA conducts the meetings remotely (e.g., via conference calls). SSA schedules conference calls with its EIEPs to determine whether the EIEPs technical, managerial, and operational security measures for protecting data obtained electronically from SSA continue to conform to the terms of the EIEP's data sharing agreements with SSA and SSA's associated system security requirements and procedures. Refer to the Compliance Review Program and Process.
17. Q: What are the criteria for performing a Remote Compliance Review?  
A: The EIEP must satisfy the following criteria to qualify for a Remote Compliance Review:
- EIEP's cyclical review (SSA's previous review yielded no findings or the EIEP satisfactorily resolved cited findings)
  - EIEP has made no significant change(s) in its operating or security platform involving SSA-provided information
  - EIEP has not experienced a breach of SSA-provided personally identifying information (PII) since its previous compliance review.
  - SSA rates the EIEP as a low-risk agency or state

Exhibit E, Attachment B

**ATTACHMENT 5**

**SYSTEM CERTIFICATION REQUIREMENTS FOR THE CMS HUB**

Not Applicable

**Security Certification Requirements for use of the *SSA Data Set* via the Centers for Medicare & Medicaid Services' (CMS) Hub**

The Social Security Administration (SSA) does not allow new data exchange partners to begin receiving data electronically until the Authorized State Agency submits an approved Security Design Plan (SDP). SSA's Office of Information Security (OIS) usually performs an onsite security review to verify and validate that the management, operational, and technical controls conform to the requirements of the signed agreements between SSA and the Authorized State Agency, as well as applicable Federal law and SSA's technical systems security requirements (Attachment 4 to the Information Exchange Agreement (IEA)). As it concerns the use of the *SSA Data Set* via the Hub, OIS will waive the initial SDP/Certification for an existing Authorized State Agency if it meets all the following criteria:

1. The Authorized State Agency already has a functioning CMS-approved Integrated Eligibility Verification System (IEVS).
2. The Authorized State Agency is already receiving data from the Hub to support the Medicaid program and/or the Children's Health Insurance Program (CHIP).
3. The Authorized State Agency will only process requests for the *SSA Data Set* for administration of health or income maintenance programs approved by SSA through the Hub in conjunction with Insurance Affordability Programs eligibility determinations.
4. The Authorized State Agency agrees that the SSA security controls identified in the IEA and Attachment 4 to the IEA will prevail for all SSA data received by the State Agency, including the *SSA Data Set*.
5. The Authorized State Agency agrees that a significant vulnerability or risk in a security control, a data loss, or a security breach may result in a suspension or termination of the *SSA Data Set* through the Hub. In this case, at SSA's request, the Authorized State Agency agrees to immediately cease using the *SSA Data Set* for all SSA authorized health or income maintenance programs until the State Agency sufficiently mitigates or eliminates such risk(s) and/or vulnerabilities to SSA's data.
6. The Authorized State Agency agrees not to process verification requests through the Hub from a standalone application for health or income maintenance program requests that have no connection to Insurance Affordability Programs eligibility determinations.

In the event that an Authorized State Agency decides to implement a new integrated eligibility system or use a different Authorized State Agency to implement the health or income maintenance data exchange process through the Hub, the Authorized State Agency will submit to SSA's OIS an SDP and be approved/certified prior to receipt of the *SSA Data Set* through the Hub. The Authorized State Agency will adhere to the following criteria, in addition to those stated in the IEA, section C, Program Questionnaire:

1. The Authorized State Agency agrees to provide an attestation to SSA that it has received certification through the CMS Hub approval MARS-E process.
2. The Authorized State Agency attests that it operates and has a CMS-approved IEVS and the IEVS initiates the request for the *SSA Data Set* for the State Agency's administration of health or income maintenance programs approved by SSA through the Hub in conjunction with Insurance Affordability Programs eligibility determinations.



3. The Authorized State Agency uses a streamlined multi-benefit application. The Authorized State Agency agrees not to process verification requests through the Hub from a standalone application for health or income maintenance program requests that have no connection to Insurance Affordability Programs eligibility determinations.
4. The Authorized State Agency will not request the *SSA Data Set* through the Hub until it has successfully begun using the Hub for administration of Insurance Affordability Programs eligibility determinations. SSA will begin sending the *SSA Data Set* to the Authorized State Agency after the State Agency verifies that the Hub process works, as required by the CMS Hub approval MARS-E process.
5. The Authorized State Agency agrees to participate in SSA's SDP/Certification process prior to transmitting requests for the *SSA Data Set* through the Hub and to participate in SSA's triennial security compliance reviews on an ongoing basis.
6. The Authorized State Agency agrees that a significant vulnerability or risk in a security control, a data loss, or a security breach may result in a suspension or termination of the *SSA Data Set* through Hub. In this case, at SSA's request, the Authorized State Agency agrees to immediately cease using the *SSA Data Set* for all SSA authorized health or income maintenance programs until the State Agency sufficiently mitigates or eliminates such risk(s) and/or vulnerabilities to SSA's data.



Exhibit E, Attachment B

**ATTACHMENT 6**

**WORKSHEET FOR REPORTING LOSS OR PORTENTIAL LOSS  
OF PERSONALLY INDETIFIABLE INFORMATION**



09/27/06

**Worksheet for Reporting Loss or Potential Loss of Personally Identifiable Information**

**1. Information about the individual making the report to the NCSC:**

|   |                  |                |  |
|---|------------------|----------------|--|
| Name:                                   |                  |                |  |
| Position:                               |                  |                |  |
| Deputy Commissioner Level Organization: |                  |                |  |
| Phone Numbers:                          |                  |                |  |
| Work:                                   | Cell:            | Home/Other:    |  |
| E-mail Address:                         |                  |                |  |
| Check one of the following:             |                  |                |  |
| Management Official                     | Security Officer | Non-Management |  |

**2. Information about the data that was lost/stolen:**

Describe what was lost or stolen (e.g., case file, MBR data):

Which element(s) of PII did the data contain?

|                |                            |
|----------------|----------------------------|
| Name           | Bank Account Info          |
| SSN            | Medical/Health Information |
| Date of Birth  | Benefit Payment Info       |
| Place of Birth | Mother's Maiden Name       |
| Address        | Other (describe):          |

Estimated volume of records involved:

**3. How was the data physically stored, packaged and/or contained?**

Paper or Electronic? (circle one):

If Electronic, what type of device?

|                   |             |             |                    |
|-------------------|-------------|-------------|--------------------|
| Laptop            | Tablet      | Backup Tape | Blackberry         |
| Workstation       | Server      | CD/DVD      | Blackberry Phone # |
| Hard Drive        | Floppy Disk | USB Drive   |                    |
| Other (describe): |             |             |                    |

09/27/06

**Additional Questions if Electronic:**

|   | <u>Yes</u> | <u>No</u> | <u>Not Sure</u> |
|---|------------|-----------|-----------------|
| a. Was the device encrypted?                        |            |           |                 |
| b. Was the device password protected?               |            |           |                 |
| c. If a laptop or tablet, was a VPN SmartCard lost? |            |           |                 |
| Cardholder's Name:                                  |            |           |                 |
| Cardholder's SSA logon PIN:                         |            |           |                 |
| Hardware Make/Model:                                |            |           |                 |
| Hardware Serial Number:                             |            |           |                 |

**Additional Questions if Paper:**

|   | <u>Yes</u> | <u>No</u> | <u>Not Sure</u> |
|---|------------|-----------|-----------------|
| a. Was the information in a locked briefcase?         |            |           |                 |
| b. Was the information in a locked cabinet or drawer? |            |           |                 |
| c. Was the information in a locked vehicle trunk?     |            |           |                 |
| d. Was the information redacted?                      |            |           |                 |
| e. Other circumstances:                               |            |           |                 |

4. **If the employee/contractor who was in possession of the data or to whom the data was assigned is not the person making the report to the NCSC (as listed in #1), information about this employee/contractor:**

|   |       |             |  |
|---|-------|-------------|--|
| Name:                                   |       |             |  |
| Position:                               |       |             |  |
| Deputy Commissioner Level Organization: |       |             |  |
| Phone Numbers:                          |       |             |  |
| Work:                                   | Cell: | Home/Other: |  |
| E-mail Address:                         |       |             |  |

5. **Circumstances of the loss:**
- When was it lost/stolen?
  - Brief description of how the loss/theft occurred:
  - When was it reported to SSA management official (date and time)?
6. **Have any other SSA components been contacted? If so, who? (Include deputy commissioner level, agency level, regional/associate level component names)**

09/27/06

**7. Which reports have been filed? (include FPS, local police, and SSA reports)**

| <b>Report Filed</b>        | <b>Yes</b> | <b>No</b> | <b>Report Number</b> |
|----------------------------|------------|-----------|----------------------|
| Federal Protective Service |            |           |                      |
| Local Police               |            |           |                      |
|                            |            |           |                      |
|                            | <b>Yes</b> | <b>No</b> |                      |
| SSA-3114 (Incident Alert)  |            |           |                      |
| SSA-342 (Report of Survey) |            |           |                      |
| Other (describe)           |            |           |                      |

**8. Other pertinent information (include actions under way, as well as any contacts with other agencies, law enforcement or the press):**

OFFICE OF THE MAYOR  
SAN FRANCISCO



EDWIN M. LEE

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: *for* Mayor Edwin M. Lee *[Signature]*  
RE: Contract Renewal - Community Behavioral Health Services - Mental Health Services  
DATE: October 31, 2017

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Attached for introduction to the Board of Supervisors is a resolution retroactively approving Performance Contract No. 17-94549, between Community Behavioral Health Services and the Department of Health Care Services, incorporating the Mental Health Services Act, Projects for Assistance in Transition from Homelessness, the Mental Health Plan, and Community Mental Health Services Grant for the period of July 1, 2017, through June 30, 2018.

Should you have any questions, please contact Mawuli Tugbenyoh (415) 554-5168.

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