Contractor Certification Clauses

CCC 04/2017

CERTIFICATION

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

Contractor/Bidder Firm Name (Printed)	Federal ID Number
County of San Francisco	94-6000417

By (Authorized Signature)

Printed Name and Title of Person Signing

Date Executed	Executed in the County of

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, 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
SCOPE OF WORK

I. Service Overview

The California Department of Health Care Services (hereafter referred to as DHCS) administers the Behavioral Health Services Act, Lanterman-Petris-Short (LPS) Act, Projects for Assistance in Transition from Homelessness (PATH), Community Mental Health Services Block Grant (MHBG), Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUBG), and Crisis Counseling Assistance and Training Program (CCP), and oversees county provision of community mental health services pursuant to the Bronzan-McCorquodale Act.

Contractor (hereafter referred to as County) must meet certain conditions and requirements to receive funding for these programs and services, as set forth in this County Performance Contract (hereafter referred to as the Contract or Agreement), as required by Welfare and Institutions Code (W&I) sections 5650(a), 5651, and 5897. County agrees to comply with all of the conditions and requirements described herein.

DHCS will monitor this Contract to ensure compliance with applicable federal and State law and applicable regulations. (California Government Code (GC), §§ 11180-11182; W&I §§ 5614, 5717(b), 5651(b)(10), 5897(d), 5963.04, 14124.2(a), and 14197.7.)

County must submit all deliverables required in this Contract in the schedule, form, and manner specified by DHCS.

II. Service Location

The services must be performed at the Contractor's work site unless specified via writing to the DHCS Contract Manager.

III. Service Hours

The services must be provided during the Contractor's normal working hours, 8:00AM – 5:00PM, Monday through Friday, unless specified via writing to the DHCS Contract Manager.

IV. Contract Representatives

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

Department of Health Care Services	**County of San Francisco**
Contract Manager: Waheeda Sabah Telephone: 916-345-7462 Email: waheeda.sabah@dhcs.ca.gov	Hillary Kunins, MD, MPH, Director of Behavioral Health Services Telephone: (415) 255-3449 Fax: (415) 255-3440 Email: Hillary.Kunins @sfdph.org

B. Direct all inquiries to:

Department of Health Care Services	**County of San Francisco**
Behavioral Health – Community Services Division/Federal Grants Branch Attention: Waheeda Sabah 1501 Capitol Avenue P.O. Box Number 997413, Mail Stop 2624 Sacramento, CA 95899-7413 Telephone: (916) 345-7462 Email: waheeda.sabah@dhcs.ca.gov	Attention: Marlo Simmons, MPH 1380 Howard Street, room 410 San Francisco, CA, 94103 Phone: (415) 255-3915 Fax: (415) 255-3440 Email: marlo.simmons@sfdph.org

C. Either party may make changes to the information in provision 4 of this Exhibit A by giving written notice to the other party. Said changes will not require an amendment to this Contract.

V. General Requirements for Agreement

W&I section 5651(b) sets forth specific assurances that must be incorporated into this Contract. County must:

A. Comply with the expenditure requirements of W&I section 17608.05;

B. Provide services to persons receiving involuntary treatment as required by the LPS Act (commencing with W&I section 5000) and the Children's Civil Commitment and Mental Health Treatment Act of 1988 (commencing with W&I section 5585);

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 of the Bronzan-McCorquodale Act (commencing with W&I section 5700) , and submit cost reports and other data to DHCS in the form and manner determined by DHCS;

D. Ensure that the Behavioral Health Advisory Board has reviewed and approved procedures ensuring citizen and professional involvement at all stages of the planning process pursuant to W&I 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, and all agreements, certifications, assurances, and policy letters, pertaining to federally funded mental/behavioral health programs, including, but not limited to, the PATH, MHBG, and SUBG programs;

G. Provide all data and information set forth in W&I sections 5610 and 5664 ;

H. If County elects to provide the services described in Chapter 2.5 of the Bronzan-McCorquodale Act (commencing with W&I section 5670), 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 Behavioral Health Services Act.

VI. County Behavioral Health Director

A. County must comply with the organizational requirements of W&I sections 5604 (Behavioral Health Board), 5607, and 5608 (County Behavioral Health Director).

B. County agrees to notify DHCS immediately if there is any change in the position of the County Behavioral Health Director. County must provide DHCS the contact information for any new County Behavioral Health Director appointed.

VII. Americans with Disabilities Act

County agrees to ensure that deliverables developed and produced, pursuant to this Agreement must comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973 as amended (29 United States Code (USC) § 794d), the Americans with Disabilities Act of 1990 (42 USC § 12101 *et seq.*), and the implementing regulations, including 36 Code of Federal Regulations (CFR) Part 1194 and 28 CFR Part 36, as applicable. 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 GC section 7405 codifies section 508 of the Rehabilitation Act of 1973 and its implementing regulations requiring accessibility of electronic and information technology.

VIII. Executive Order N-6-22 – Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia’s actions in Ukraine, as well as any sanctions imposed under State law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine County is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that will be grounds for termination of this Contract. The State must provide County advance written notice of such termination, allowing County at least 30 calendar days to provide a written response. Termination will be at the sole discretion of the State.

IX. Word Usage

Unless the context of this Contract clearly requires otherwise, (a) the plural and singular numbers shall each be deemed to include the other; (b) the masculine, feminine, and neutral genders shall each be deemed to include the others; (c) "shall," "will," "must," or "agrees" are mandatory, and "may" is permissive; (d) "or" is not exclusive; and (e) "includes" and "including" are not limiting.

The provision of the services is subject to the provisions set forth in the Exhibits and Attachments appended hereto.

Exhibit A, Attachment I

Table of Contents

1.0 Behavioral Health Services Act

This Article enumerates key County requirements for implementing the Behavioral Health Services Act (BHSA). These requirements are set forth in greater detail in the BHSA County Policy Manual and other applicable DHCS guidance. This Article is executed pursuant to Welfare and Institutions Code (W&I) section 5897.

In March 2024, voters approved Proposition 1 to reform the Mental Health Services Act (MHSA) and fund needed behavioral health facility infrastructure through a general obligation bond. The primary goals of the BHSA are to improve access to care, increase accountability and transparency for publicly funded, county-administered behavioral health services, and expand the capacity of behavioral health care facilities across California.

This Article details County's obligations under the BHSA, including reporting requirements, fiscal policies, and programmatic requirements for BHSA-funded Behavioral Health Services and Supports (BHSS), Housing Interventions, and Full Service Partnership (FSP) programs.

1.1 BHSA: Overview and General Requirements

1.1.1 Overview

A. County must implement the BHSA consistent with this Contract (which is executed pursuant to W&I section 5897), applicable law and regulations, the BHSA County Policy Manual (hereafter referred to as the BHSA Policy Manual), and other applicable DHCS guidance.

B. The defined terms enumerated in the BHSA Policy Manual apply to this Contract, except as otherwise provided.

C. To the extent there is a conflict between the terms of this Contract and any federal or state statute or regulation or DHCS guidance issued pursuant to W&I section 5963.05 (or other applicable bulletin authority), County must comply with the statute, regulation, or guidance, and the conflicting Contract provision will no longer be in effect.

D. Where a requirement provided or referenced herein has an effective date that differs from the effective date of this Contract, County is required to comply with the requirement as of its applicable effective date (not the effective date of this Contract) unless DHCS guidance provides otherwise.

E. All terms and conditions set forth in the BHSA Policy Manual are hereby incorporated by reference and made a part of this Contract as if fully set forth herein.

1.1.2 Eligible and Priority Populations

County must comply with BHSA requirements concerning eligibility for and prioritization of services, as described in BHSA Policy Manual section 2.B.3 and any other applicable DHCS guidance.

A. Eligible Populations

1) County must limit BHSA services to eligible children and youth and eligible adults and older adults, as defined in W&I section 5892(k). BHSA eligible populations are not required to be enrolled in the Medi-Cal program. (W&I § 5892(k)(7)-(8).)

B. Priority Populations

1) County must prioritize BHSA services to the populations enumerated in W&I section 5892(d).

2) County is permitted to offer BHSA services to eligible individuals outside these priority populations.

1.2 Integrated Plan, Annual Updates, and Intermittent Updates

County must develop and submit three-year Integrated Plans (IPs) for Behavioral Health Services and Outcomes and Annual Updates as described in this section. Counties may submit intermittent updates as needed at any time during the IP cycle consistent with BHSA Policy Manual section 3, and any other applicable DHCS guidance. (W&I §§ 5963–5963.03.)

1.2.1 IP Purpose & Contents

A. Using the IP and budget templates developed by DHCS, County must comply with the requirements in this section and the BHSA Policy Manual chapter 3:

1) Describe its planned BHSA services and programming in accordance with:

a. Local data, including using local mental health and substance use disorder (SUD) prevalence data, unmet behavioral health treatment needs data, as well as identifying local health disparities, homelessness point-in-time counts and considering community health improvement plans (W&I § 5963.02(b)(2), (b)(4)); and

b. Statewide behavioral health goals and performance measures as described in BHSA Policy Manual section 3.E.6 (W&I § 5963.02(c)(3); BHSA Policy Manual §§ 2.C, 3.D);

2) Report County's planned activities and projected expenditures for all County Behavioral Health System services within the Behavioral Health Care Continuum for all funding sources (W&I § 5963.02(c)(1-2); BHSA Policy Manual § 3.C); and

3) Ensure County Board of Supervisors approves the IP and certifies that County will meet its realignment obligations, including but not limited to time and distance standards and appointment time standards as set forth W&I section 14197 without utilizing waitlists. (W&I §§ 5963.02(a), (c), 14197; 14197.71(c)(2).)

B. Joint IP Submissions

1) Counties submitting a joint IP must comply with the requirements in this subsection and the BHSA Policy Manual section 3.E.5. A joint IP means an IP that covers:

a. Two or more county behavioral health departments; or

b. One or more city-operated programs or departments acting jointly with another city-operated program or department or county behavioral health department.

2) Special circumstances for joint IPs

a. Counties that submitted joint three-year plans under the MHSA may continue to submit joint IPs under BHSA.

b. The two city-operated mental health authorities receiving funds pursuant to W&I section 5701.5 must submit IPs independently from their counties under BHSA.

c. Counties with separate mental health and substance use disorder departments must collaborate on development on the IP and submit one joint IP to their County Board of Supervisors.

3) Counties must ensure joint IP is (BHSA Policy Manual § 3.E.5.3):

a. Approved by the Board of Supervisors for each county represented in the joint IP or other local governing body prior to submission to the Behavioral health Services Oversight and Accountability Commission and DHCS; and

b. Includes certification from the joint entity's behavioral health director as described in subsection 1.2.7.D. of this Attachment I.

1.2.2 IP Submission

A. County must submit a draft IP no later than March 31 and final IP no later than June 30 to DHCS the fiscal year prior to the effective date of the IP in accordance with BHSA Policy Manual sections 3.A.1 and 3.E.

1) If County fails to submit a complete draft or final IP by the required deadlines, County will be out of compliance and may be subject to corrective action. (BHSA Policy Manual § 3.E.4.)

2) County must submit draft and final IPs through the DHCS' web-based county portal. (BHSA Policy Manual §§ 3.A, 3.E.4.1.)

a. If DHCS requires County to revise the IP, County will have 15 calendar days from the revision notice to address the issues raised by DHCS and resubmit the IP through the county portal. IPs are effective beginning July 1 of the fiscal year the IP covers. DHCS will post County's IP on DHCS' website. (BHSA Policy Manual § 3.E.4.2.)

1.2.3 Exemptions Submissions & Approval

A. If County seeks an exemption (as described in subsections 1.7.4 (FSP) and 1.8.2 (Housing Interventions) of this Attachment I), County must comply with the requirements in this subsection 1.2.3 and in BHSA Policy Manual section 3.E.3.

B. County must submit any exemption requests as part of the draft IP, as outlined in subsection 1.2.2, above. To determine local priorities and make the exemption requests responsive to local needs, counties must begin their community planning process, as described in subsection 1.2.6 of this Attachment I, prior to submitting a draft IP with an exemption request. (BHSA Policy Manual § 3.E.3.2.)

C. DHCS must approve or deny County's exemption request 30 calendar days from receipt of the request. If DHCS does not respond within 30 calendar days, the exemption request will be considered approved. (BHSA Policy Manual § 3.E.3.4.)

D. If DHCS denies County's exemption request, County may appeal the denial within 30 calendar days of receiving DHCS' denial as described in BHSA Policy Manual section 3.E.3.5.

E. An approved exemption will only be valid for the duration of the three-year plan. For each subsequent three-year plan submission, County must submit an updated exemption request for DHCS approval. (BHSA Policy Manual § 3.E.3.2.)

1.2.4 Funding Allocation Percentage Changes

A. Approved funding allocation percentage changes are final and cannot be adjusted again for the duration of the three-year plan, unless an annual change is approved by DHCS due to a state or local emergency. To be granted an annual change, County must demonstrate to DHCS that (BHSA Policy Manual § 6.B.5.1):

1) It is experiencing a state (Government Code (GC), § 8625) or local (GC § 8630) emergency, and

2) The change is necessary because of the emergency.

B. County may only request an annual change in funding allocation percentages for previously approved funding allocation percentage changes. (W&I § 5892(c)(4)(C).)

C. County must submit the funding allocation percentage change request in the county portal.

1.2.5 Annual Updates and Intermittent Updates

A. County must submit annual updates to the IP in the second and third years of the IP cycle. (W&I § 5963.02(a); BHSA Policy Manual § 3.A.3.)

B. County may prepare intermittent updates to the IP at any time during the IP cycle, although County must notify DHCS prior to submitting intermittent updates. (BHSA Policy Manual § 3.A.3.)

C. County must include a summary and justification of the changes made by the annual updates and intermittent updates for a 30-day comment period prior to the effective date of the updates. (W&I § 5963.03(c)(2)(B); BHSA Policy Manual § 3.A.3.)

D. Annual updates and intermittent updates are not subject to the stakeholder engagement requirements outlined in subsection 1.2.6 of this Attachment I. (W&I § 5963.03(a).) However (BHSA Policy Manual § 3.A.3):

1) DHCS encourages stakeholder engagement; and

2) If County chooses to elicit local stakeholder engagement in developing annual updates or intermittent updates, County must comply with the local behavioral health public hearing requirements outlined in subsection 1.2.7 of this Attachment I. (W&I § 5963.03(b)(1).)

E. Submission and DHCS Review

1) County must submit annual updates and intermittent updates using the DHCS' templates and web-based portal.

2) Annual updates and intermittent updates are subject to the same process for submission and DHCS review as the IP, as described above in subsection 1.2.1 of this Attachment I.

1.2.6 Community Planning Process

A. In developing the IP, County must conduct the following Community Planning Process activities (W&I § 5963.03(a); BHSA Policy Manual § 3.B):

1) Engage local stakeholders in developing each element of the IP, as described in BHSA Policy Manual section 3.B.1 (W&I § 5963.02(b)); and

2) Collaborate and engage with Medi-Cal Managed Care Plans (MCPs) and Local Health Jurisdictions (LHJs) as described in BHSA Policy Manual section 3.B.2, including by:

a. Working with its LHJ on the development of the Community Health Improvement Plan (CHIP) (W&I § 5963.01(b));

b. Considering the CHIP of each LHJ that covers residents of the County in preparing County's IP and annual update (W&I § 5963.02(b)(4));

c. Working with each MCP that covers residents of the County on the development of the MCP's Population Needs Assessment (PNA) (W&I § 5963.01(a)); and

d. Considering the PNA of each MCP that covers residents of the County in preparing County's IP and annual update. (W&I § 5963.02(b)(3).)

B. In implementing this subsection 1.2.6, County must:

1) Engage with LHJs and MCPs on Community Health Assessments (CHAs) and CHIPs through collaboration, data-sharing, and stakeholder engagement as described in BHSA Policy Manual section 3.B.2.3.

2) Refer to the statewide behavioral health goals and associated performance measures during the community planning process, as described in BHSA Policy Manual section E.6.

1.2.7 Public Comment

For each draft IP, County must comply with the public comment and update processes outlined in this section, as applicable, and the requirements specified in BHSA Policy Manual sections 3.B.3 and 3.E.2.1.2 (W&I § 5963.03(a)-(b)):

A. Provide 30 days for stakeholder comment, which may be conducted before or after County submits its draft IP to DHCS (W&I § 5963.03(a)(2)(B));

B. After the 30-day comment period, require the local behavioral health board to (W&I § 5963.03(b), (d)):

   1) Review the draft plan and make recommendations to the local behavioral health agency for revisions (W&I § 5963.03(b).); and

   2) Provide an annual report to the local governing body (the local Board of Supervisors or city council) and to DHCS that includes written explanations in response to any substantive recommendations made by the local behavioral health board that are not included in the final IP or annual or intermittent updates. (W&I § 5963.03(d), (b)(5).)

C. After the 30-day comment period and public hearing are complete, County must revise the IP to include (W&I § 5963.03(b)((2)-(3)):

   1) A summary of substantive written recommendations; and

   2) A summary and analysis of the revisions made as a result of stakeholder feedback.

D. County must receive approval from County's Board of Supervisors and certification from County's Behavioral Health Director prior to submitting the final IP. (BHSA Policy Manual § 3.E.2.1.2.)

1.2.8 County Planning Funds

A. County may allocate up to 5 percent of the total annual revenue received from the local Behavioral Health Services Fund (BHSF) to fund planning costs, pursuant to the requirements set forth in subsection 1.4 of this Attachment I. (W&I § 5892(e)(1)(B)-(C); BHSA Policy Manual § 3.B.4; Behavioral Health Information Notice (BHIN) 25-016.) Eligible planning costs do not include costs incurred as administrative costs or program expenditures.

1.3 Behavioral Health Outcomes, Accountability, and Transparency Report

County must develop and submit an annual Behavioral Health Outcomes, Accountability, and Transparency Report (BHOATR) to DHCS, consistent with BHSA Policy Manual section 4 and any other applicable DHCS guidance. (W&I § 5963.04.)

1.3.1 BHOATR Purpose, Contents and Submission

A. Using the BHOATR and expenditure templates developed by DHCS, County must:

1) Report on behavioral health spending, service utilization, and achievement of goals and outcomes outlined for the reporting period (W&I § 5963.04(a); BHSA Policy Manual §§ 3.C, 4); and

2) Ensure County Board of Supervisors approves the BHOATR and certifies that County will meet its realignment obligations, including but not limited to time and distance standards and appointment time standards as set forth W&I section 14197 without utilizing waitlists. (W&I § 5963.04(b)-(c), 14197.71(c)(2).)

B. County must submit the BHOATR through DHCS' web-based county portal.

C. DHCS must post County's BHOATR and an aggregated statewide BHOATR on DHCS' website. (W&I § 5964.04(d); BHSA Policy Manual § 4.A.)

1.4 BHSA Fiscal Policies

County must establish a local BHSF, appropriately allocate funding, and comply with related reporting requirements consistent with BHSA Policy Manual section 6.B and any other applicable DHCS guidance. (W&I § 5892.)

1.4.1 Allocation Methodology

A. County must establish a local BHSF for the monthly distribution of funds from the State Controller's Office. (W&I §§ 5892(g), 5891(c); BHSA Policy Manual § 6.B.1.)

B. County must establish and maintain sub-accounts for each BHSA component (Housing Intervention Programs, FSP Program, and BHSS). County is encouraged to maintain sub-accounts for each suballocation under each BHSA component, as described in BHSA Policy Manual section 6.B.1.1.

C. County must allocate and spend funds consistent with the proposed activities and projected expenditures approved in County's IP, intermittent updates, and/or annual update. (W&I § 5892(h); BHSA Policy Manual § 6.B.1.1.)

1.4.2 Local Prudent Reserve

County must (BHSA Policy Manual § 6.B.3):

A. Establish and maintain a local Prudent Reserve (PR) to ensure BHSA components are not significantly impacted during years where revenues for the BHSF are below recent averages adjusted by changes in the state population and the California Consumer Price Index, as determined by DHCS. During such periods, County may transfer funds out of the PR in accordance with this Attachment I and BHSA Policy Manual section 6.B.3. (W&I § 5892(b)(1).) County may draw down PR funds only during periods in which DHCS has determined that state-level BHSF revenues are below recent trends.

B. Assess PR funding levels at least once every three years. County must report PR assessments in the IP and must ensure each PR assessment is certified by County's Behavioral Health Director in the county portal. (W&I § 5892(b)(5).)

C. Not exceed the maximum PR levels calculated by DHCS.

D. Spend excess funds on BHSA components as outlined in subsection 1.4.1.A if County exceeds the PR allowable maximum. (W&I § 5892(b)(1), (b)(3)-(5).)

E. Not count funds placed in the PR toward its required BHSA component allocations. Counties may transfer funds from their monthly disbursement to their local PR after allocating the required amount of funds to each component. (W&I § 5892.)

F. Report all PR transfers and expenditures in the BHOATR.

1.4.3 Funding Component Allowances

County must comply with the following funding allocation and suballocation requirements, unless County receives approval for a funding transfer (in accordance with subsection 1.4.4, below) or exemption (in accordance with subsections 1.7.4 (FSP) and 1.8.2 (Housing), below). (W&I § 5892(a); BHSA Policy Manual § 6.B.5.)

A. County must allocate funding for BHSA components and suballocations according to the following requirements:

1) Thirty percent for Housing Intervention Programs. Within this thirty percent (W&I § 5892(a)(1)(A)):

   a. A minimum of fifty percent must be spent on housing interventions for persons who are chronically homeless with a focus on those in encampments; and

   b. A maximum of twenty-five percent may be spent on Capital Development Projects.

2) Thirty-five percent for the FSP Program (W&I § 5892(a)(2)(A)); and

3) Thirty-five percent for BHSS, including (W&I § 5892(a)(3)(A), (a)(3)(B)(i)-(ii)):

   a. A minimum of fifty-one percent exclusively for early intervention programs, of which at least fifty-one percent must be used to serve individuals 25 years of age and younger. Services provided as part of an early intervention evidence-based practices (EBPs) or community-defined evidence-based practices (CDEPs) that supports parents and caregivers may count towards the percentage to be used to service individuals 25 years of age and younger when they are provided for the benefit of that child/youth. (BHSA Policy Manual § 7.A.7.)

1.4.4 Funding Transfer Requests

County may request permission from DHCS to change required funding allocation percentages by transferring BHSA funds between BHSA components, in accordance with BHSA Policy Manual section 6.B.4. (W&I § 5892(c).)

A. County's approved funds transfers between BHSA components are final and cannot be adjusted for the three-year duration of the IP, unless an annual change is approved by DHCS due to a state or local emergency pursuant to W&I section 5892(c)(4)(C).

   1) County may modify its budgeted projected expenditures for the suballocations within a component without advance DHCS approval as part of an annual or intermittent update, in accordance with subsection 1.2.5.E, above. However, County must continue to abide by the suballocation requirements described in subsection 1.4.3, above.

B. County must report approved transfers and updated BHSA allocations on the BHOATR, consistent with the transfers and exemptions approved as part of the IP. (W&I § 5963.04(a).)

C. Transferring funds between BHSA components, pursuant to an approved funding transfer request under this subsection 1.4.4, does not reset or extend the original reversion period. All transferred funds remain subject to the same reversion period that applied based on the fiscal year in which the funds were originally allocated.

D. County's funding transfer requests are not exempt from:

1) Suballocation requirements or any other additional applicable laws, including as described in subsection 1.4.3 of this Attachment I (W&I § 5892(c)(2));

2) Local stakeholder consultation requirements (W&I § 5892(c)(3)); and

3) Reversion requirements, including the reversion period associated with the funds prior to the transfer. (W&I § 5892(i).)

E. County must submit transfer requests to DHCS prior to or at the same time as County's IP submission using DHCS' web-based county portal and must report all approved transfer requests on the IP. (W&I § 5892(c)(4).) Transfer requests must be approved by DHCS prior to the beginning of the fiscal year in which the requested changes would take effect.

1.4.5 Reversion Policy

County must spend BHSA funds allocated to BHSA components within three years for large counties, or within five years for small counties, as described in BHSA Policy Manual section 6.B.6.2. Workforce Education and Training (WET) and Capital Facilities and Technological Needs (CFTN) funds must be spent within ten years, regardless of county size. (BHSA Policy Manual § 6.B.6.)

A. For purposes of this Attachment I, a small county is defined as a county with a population of less than 200,000, and a large county is defined as a county with a population of 200,000 or more.

B. Any BHSA funds remaining after the reversion period must revert to the State. DHCS will offset the amount of reverted funds from the County's future monthly BHSA distribution. (W&I § 5892(i); BHSA Policy Manual § 6.B.6.)

C. DHCS will provide notice of funds subject to reversion. County may submit an appeal to DHCS if County disagrees with DHCS' determination of the reversion amount. For details, see BHSA Policy Manual sections B.6.5-9. (W&I § 5892.1(b)(2).)

1.4.6 Mental Health Services Act to Behavioral Health Services Act Transition

A. County must only use BHSF dollars for permissible BHSA purposes. County must not allocate BHSF funds to any of the following activities, notwithstanding that these activities represented permissible uses of funds under the MHSA (W&I § 5892(a)(1)-(3); BHSA Policy Manual § 6.B.7):

1) Community Services and Supports

2) Prevention and Early Intervention

3) Innovation (INN) funds (BHSA Policy Manual § 6.B.7.2)

a. If County has INN funds that were encumbered prior to July 1, 2026, and the INN project is operational, meaning that County has spent any funds on the INN project prior to July 1, 2026, those INN funds will remain encumbered for the duration of the FY 2026-29 IP.

b. If County's INN funds are encumbered in a previously approved INN project, but that project is not operational as of July 1, 2026, those funds will be disencumbered and may be subject to reversion.

c. County must report all INN projects, including which INN projects are operational, in the IP and expenditures in the BHOATR.

B. If County has unspent MHSA funds as of July 1, 2026, County may allocate those funds to BHSA components, subject to compliance with applicable BHSA requirements, including:

1) Allocation and suballocation requirements for each BHSA component as outlined in subsection 1.4.3 of this Attachment I;

2) BHSA component requirements as outlined in subsections 1.6, 1.7, and 1.8 of this Attachment I; and

3) Reversion requirements as outlined in subsection 1.4.5 of this Attachment I except for INN Funds.

C. County's MHSA funds for WET and CFTN must remain available for WET and CFTN expenditures within the BHSS component. (BHSA Policy Manual §§ 6.B.7.3, 6.B.7.6.)

1) MHSA WET or CFTN funds transferred into BHSA BHSS will remain WET or CFTN funds and will not be subject to BHSA suballocation requirements.

2) All transfers into WET and CFTN are irrevocable and cannot be transferred out of WET and CFTN.

D. Any unspent MHSA funds transferred to the BHSF remain subject to their original revision periods. (BHSA Policy Manual §§ 6.B.7.3, 6.B.7.6.)

1.4.7 Administrative Cost Principles

County may claim reimbursement for administrative costs in accordance with BHSA Policy Manual section 6.B.8 and BHIN 25-016.

A. Administrative costs are costs that support the operations and overhead of County's behavioral health programs. Administrative costs for BHSA do not include costs incurred as planning costs (outlined in subsection 1.2.8 of this Attachment I and BHSA Policy Manual section 3.B.4) or service expenditures.

B. County may use a portion of local BHSA revenue towards direct and indirect administrative costs.

1) Administrative costs include expenses related to improving planning, quality outcomes, data reporting, and subcontract oversight for County's behavioral health programs, including programs other than BHSA. Administrative costs are capped at two percent for large counties and four percent for small counties. (W&I § 5892(e)(2)(B).)

2) Administrative costs do not include expenditures incurred as direct service costs or as planning costs related to development of the IP. Planning costs for the IP are subject to a separate five percent cap, as outlined in subsection 1.2.8 of this Attachment I. (W&I § 5892(e)(1)(B)-(C); BHSA Policy Manual § 3.B.4.)

3) Counties may submit claims for reimbursement of certain direct administrative costs in excess of these caps pertaining to preparing and submitting the IP or BHOATR, or to information technology system enhancements, as described in BHIN 25-016.

C. County must report all administrative costs in the IP and BHOATR, and must report such costs consistent with 2 Code of Federal Regulations (CFR) section 200. (W&I § 5963.04(a)(2)(F); BHSA Policy Manual § 6.B.8.1.)

D. For indirect administrative costs, County must charge indirect costs to a BHSA program through an acceptable allocation method that allocates the costs of support and administrative services to the benefiting programs, in accordance with 2 CFR part 200 and BHSA Policy Manual section 6.B.8.2.2.

1.5 Promoting Access to Care through Efficient Use of State and County Resources

1.5.1 Overview

Effective July 1, 2027, County must comply with the requirements set forth in this subsection 1.5, BHSA Policy Manual section 6.C, and any other applicable DHCS guidance. These requirements apply with respect to all BHSA-funded providers (including contracted providers as well as providers employed, owned, or operated by County) delivering a BHSA-funded service that is also covered by, as applicable (W&I § 5891(a)(2)-(3)):

A. County's Medi-Cal Behavioral Health Delivery System (BHDS) (i.e., the county's administration of Specialty Mental Health Services (SMHS), Drug Medi-Cal (DMC) and/or DMC Organized Delivery System (DMC- ODS) services);

B. An MCP; or

C. Commercial health insurance.

1.5.2 Medi-Cal BHDSs

For any provider receiving BHSA funding for services that are covered by County's BHDS, County must require the provider to (W&I § 5891(a)(3); BHSA Policy Manual § 6.C.2):

A. Enroll in Medi-Cal, seek SMHS and/or DMC certification, and participate in County's BHDS, as applicable;

B. For an individual receiving BHSA-funded services that are also covered by County's BHDS, check whether the individual is enrolled in Medi-Cal, and if not, refer the individual for eligibility screening and enrollment support; and

C. Submit claims to the BHDS for all covered services for all Medi-Cal members.

1.5.3 Medi-Cal MCPs

For any provider receiving BHSA funding for services that are non-specialty mental health services (NSMHS) or SUD services covered by Medi-Cal MCPs, County must require the provider to (W&I § 5891(a)(3)-(4); BHSA Policy Manual § 6.C.2):

A. Enroll in Medi-Cal;

B. For an individual receiving BHSA-funded services that are also covered by MCPs, check whether the individual is enrolled in Medi-Cal, and if not, refer the individual for eligibility screening and enrollment support; and

C. Make a good faith effort to submit claims to MCPs for all covered services for all Medi-Cal members in accordance with each MCP's billing requirements, including obtaining prior authorization, when applicable.

1.5.4 Commercial Health Insurance

For any provider receiving BHSA funding for services that are covered by commercial health insurance, County must require provider to make a good faith effort to meet the following requirements in this subsection 1.5.4. For County-contracted providers, County will meet these requirements if it contractually requires BHSA-funded providers to take the following steps (W&I § 5891(a)(3)-(4); BHSA Policy Manual § 6.C.3):

A. Check whether individuals receiving BHSA-funded services are enrolled in a commercial health plan at the time the individuals request and receive BHSA-funded service; and if so,

B. Make a good faith effort to submit claims to commercial health plans for all covered services in accordance with each health plan's billing requirements, including obtaining prior authorization, when applicable.

C. Report complaints about commercial health plan conduct for failure to contract, enter into agreements, or timely reimburse the county for services.

1.5.5 Appropriate Use of Other Non-Behavioral Health Services Act Funds

County must not use BHSA funds to supplant existing State or County funds that have been used to provide mental health services or SUD treatment services, in accordance with W&I section 5891(a)(1)(B). (BHSA Policy Manual § 6.C.4.)

1.6 Behavioral Health Services and Supports

County must implement BHSA BHSS consistent with BHSA Policy Manual section 7.A and any other applicable DHCS guidance. (W&I § 5892, (a)(3)(A).) BHSS categories include:

1.6.1 Children's Adult, and Older Adult Systems of Care

County may use a portion of BHSS funds to provide services pursuant to W&I Division 5, Part 4 (commencing with section 5850) for the Children's System of Care and Part 3 (commencing with section 5800) for the Adult Systems of Care. Children's, Adult, and Older Adult Systems of Care services funded under BHSS

may not include Housing Interventions or services for individuals enrolled in an FSP. (BHSA Policy Manual § 7.A.2.)

1.6.2 Outreach and Engagement

County may use a portion of BHSS funds for Outreach and Engagement. BHSS funds may be used for activities intended to reach, identify, and engage individuals, families, and communities in the behavioral health system and reduce disparities. (BHSA Policy Manual § 7.A.3.)

1.6.3 WET

A. County may use a portion of BHSS funds for County-operated and County-contracted behavioral health workforce recruitment, development, training, and retention activities. BHSS funds for WET activities must be spent within ten years, after which unspent funds will be subject to reversion. (BHSA Policy Manual § 7.A.4.)

B. WET activities must supplement, but must not duplicate, funding available through other State-administered workforce initiatives, including the Behavioral Health Community-Based Organized Networks of Equitable Care and Treatment (BH-CONNECT) workforce initiative administered by the Department of Health Care Access and Information (HCAI). (BHSA Policy Manual § 7.A.4.1.)

1.6.4 CFTN

County may use a portion of BHSS funds for CFTN. BHSS CFTN projects include the acquisition and development of land, the construction or renovation of buildings, or the development, maintenance, or improvement of information technology to support behavioral health administration and services. Counties can also use BHSS funds as the required match for Behavioral Health Infrastructure Bond Act of 2023 Program Behavioral Health Continuum Infrastructure Program (BHCIP) awards. BHSS funds for CFTN projects must be spent within ten years, after which unspent funds will be subject to reversion. (BHSA Policy Manual § 7.A.5.)

1.6.5 Innovative Behavioral Health Pilots and Projects

The goal of innovative behavioral health pilots and projects is to build the evidence base for the effectiveness of new statewide strategies. County is encouraged to pilot and test innovative behavioral health pilots and projects in all BHSA funding components (Housing Interventions, FSP, and BHSS). County should fund innovative behavioral health pilots and projects under each of those separate funding components. (BHSA Policy Manual § 7.A.6.)

1.6.6 Early Intervention Programs

County must implement Early Intervention Programs designed to prevent mental illness and substance use disorders from becoming severe and disabling and to reduce disparities in behavioral health. (W&I §§ 5840(a)(1), 5892(a)(3)(A)(ii); BHSA Policy Manual § 7.A.7)

A. County's Early Intervention Program must, as described in BHSA Policy Manual section 7.A.7:

1) Emphasize the reduction of the likelihood of suicide and self-harm, incarcerations, homelessness, and the other adverse outcomes enumerated in BHSA Policy Manual section 7.A.7 (W&I § 5840(d));

2) Include culturally responsive and linguistically appropriate interventions;

3) Create critical linkages with community-based organizations;

4) Prioritize funds according to BHSA Policy Manual section 7.A.7.2, including specific interventions focused on childhood trauma (W&I §§ 5840.7; 5840.6(c));

5) Include the following components, as described in BHSA Policy Manual section 7.A.3: outreach, access and linkage to care, and mental health and SUD services and supports (W&I § 5840(b)); and

6) Provide an Early Psychosis Intervention (EPI) Plus Program, which must include a Coordinated Specialty Care for First Episode Psychosis (CSC for FEP) program with fidelity and consistent with the requirements established for BH-CONNECT, as described in BHSA Policy Manual section 7.A.7.5.2. This BHSA requirement applies regardless of whether the County has elected to offer CSC for FEP as a bundled Medi-Cal service.

B. In addition to CSC for FEP, DHCS may, in the future, identify other EBPs or CDEPs that County is required to implement. (W&I § 5840(c)(5).) County may, in addition, describe in their IP County-specific CDEPs that are not included on DHCS' list of EBPs and CDEPs. (BHSA Policy Manual § 7.A.6.)

1.7 Full Service Partnership

County must implement a BHSA FSP program consistent with BHSA Policy Manual section 7.B and any other applicable DHCS guidance. (W&I § 5887.)

1.7.1 Eligible and Priority Populations

A. FSP eligible populations include (W&I § 5892(k); BHSA Policy Manual § 7.B.3.1):

1) BHSA eligible adults and older adults who meet the priority population criteria specified in W&I section 5892(d); and

2) BHSA eligible children and youth, including transitional age youth (TAY) ages 16-25.

B. County must comply with presumptive eligibility requirements set forth in W&I section 5887(d)(2) and any other applicable DHCS guidance.

1.7.2 FSP Levels of Care

County must, as described in BHSA Policy Manual section 7.B.4, ensure that FSP programs have a standard of care, with levels of care using the appropriate EBP to treat individuals based on acuity, based on clinical judgment and discretion reflecting individualized needs. (W&I § 5887(e).)

1.7.3 Program Requirements

A. County must provide the following BHSA services to FSP participants in accordance with demonstrated clinical need and in alignment with the required FSP levels of care, regardless of whether County's BHDS has opted to provide these services under a Medi-Cal bundled rate (W&I § 5887; BHSA Policy Manual § 7.B):

1) Mental health services, supportive services, and SUD services as described in BHSA Policy Manual section 7.B.3.2;

2) Assertive Community Treatment (ACT) as described in BHSA Policy Manual section 7.B.4.1;

3) Forensic ACT (FACT) as described in BHSA Policy Manual section 7.B.4.1;

4) FSP Intensive Case Management (ICM) under a team-based approach with an identified team lead, as described in BHSA Policy Manual section 7.B.4.2;

5) High Fidelity Wraparound (HFW) as described in BHSA Policy Manual section 7.B.4.3;

6) Individual Placement and Support (IPS) model of Supported Employment as described in BHSA Policy Manual section 7.B.5;

7) Assertive field-based initiation for SUD as described in BHSA Policy Manual section 7.B.6;

8) Outpatient behavioral health services for evaluation and stabilization as described in BHSA Policy Manual section 7.B.3.2;

9) Ongoing engagement services as described in BHSA Policy Manual section 7.B.3.2;

10) Service Planning in accordance with the processes in W&I sections 5806 and 5868; County's FSP Program is not required to maintain documentation in a "standalone" treatment plan or service plan; and

11) Housing Interventions, funded under the Housing Interventions category as outlined in subsection 1.8 of this Attachment I.

B. County FSP teams must be capable of supporting FSP participants living with co-occurring mental health and SUD conditions, as described in BHSA Policy Manual sections 7.B.3.2 and 7.B.3.5.

C. County may include additional behavioral health services County determines are beneficial to an eligible individual's treatment, if not already covered by ACT, FACT, FSP ICM, or HFW, in collaboration with the individual and, when appropriate, the individual's family. (BHSA Policy Manual § 7.B.3.3.)

D. County may use FSP funding for outreach activities if the activities relate to enrolling individuals living with significant behavioral health needs in an FSP (W&I § 5887(d).) General outreach to individuals living with significant behavioral health needs who are not FSP eligible should be funded under other appropriate funding sources including BHSS and Housing Interventions. (BHSA Policy Manual § 7.B.3.3.)

1.7.4 FSP Exemptions

A. For the first IP (covering July 1, 2026, to June 30, 2029), all counties are exempt from the EBP fidelity requirements for ACT, FACT, IPS Model of Supported Employment, and HFW. Counties are still required to begin offering the required FSP EBPs by July 1, 2026, unless a small county receives an exemption under subsection 1.7.4.C, below. (BHSA Policy Manual § 7.B.3.4.)

B. To meet FSP EBP requirements (between fiscal years 2026-2029), County must (BHSA Policy Manual § 7.B.3.4):

1) Participate in ongoing training and technical assistance for all FSP EBPs;

2) Understand gaps to fidelity for each FSP EBP by December 31, 2027; and

3) Meet other requirements and implementation milestones as described in BHSA Policy Manual section 7.B.6.

C. Small counties as defined under subsection 1.4.5.A.1 of this Attachment I and cities submitting an IP independently may request an exemption from the EBP requirements for ACT, FACT, and/or IPS. (W&I § 5887(a)(2); BHSA Policy Manual § 7.B.3.4.) County must request exemptions from each EBP (ACT, FACT, and/or IPS) individually and provide corresponding documentation. Criteria for FSP exemption requests include (BHSA Policy Manual § 7.B.3.4):

1) Limited workforce (e.g., qualified providers)

2) Limited need (e.g., the estimated population with a clinical need for an EBP)

3) Other hardships, subject to DHCS' review

1.7.5 FSP EBP Service Capacity and Fidelity Standards

A. Absent a DHCS-approved exemption, County is required to adhere to EBP requirements and to establish teams of behavioral health practitioners to deliver each FSP EBP, regardless of whether County's Medi-Cal BHDS has opted to cover these services as bundled Medi-Cal services. (BHSA Policy Manual § 7.B.)

B. County must use the IP and annual update to project the number of full-time equivalent (FTE) practitioners and multidisciplinary teams to provide ACT, FACT, IPS, and HFW between 2026 and 2029. (BHSA Policy § 7.B.6.1.) County must ensure that the projected teams identified comply with the FSP EBP fidelity standards as described in BHSA Policy Manual section 7.B.6.2.

1.8 Housing Interventions

County must implement BHSA Housing Interventions consistent with BHSA Policy Manual section 7.C and any other applicable DHCS guidance. (W&I § 5830.)

1.8.1 Eligible and Priority Populations

A. County must limit BHSA Housing Interventions component to individuals who (W&I § 5830(a)):

1) Meet BHSA eligibility criteria as defined in subsection 1.1.2 of this Attachment I; and

2) Are either at risk of homelessness, experiencing homelessness, or chronically homeless as defined in W&I section 5892(k)(2)-(3) and BHSA Policy Manual section 7.C.4.

B. Housing Interventions must not (W&I § 5830(a)(2)-(4); BHSA Policy Manual § 7.C.5):

1) Be limited to individuals enrolled in FSP;

2) Be limited to individuals enrolled in Medi-Cal; and

3) Discriminate against or deny access to housing for individuals that are utilizing medications for addiction treatment or other authorized medications, or individuals who are justice-involved.

C. County must prioritize BHSA Housing Interventions to the populations enumerated in BHSA Policy Manual section 7.C.4.2.

D. For individuals housed under the MHSA as of June 30, 2026, County must comply with the BHSA transition policies outlined in BHSA Policy Manual section 7.C.4.3.

E. County must ensure that all BHSA Housing Intervention settings are combined with access to clinical and supportive behavioral health care and housing services that will promote the individual's health and functioning and long-term stability. (BHSA Policy Manual § 7.C.5.)

1.8.2 Housing Interventions Exemptions

In accordance with the procedures in BHSA Policy Manual section 7.C.6.2 (W&I § 5892(a)(1)(B)-(C)):

A. Beginning with the IP covering fiscal years 2026-2029, counties with a population of less than 200,000 and cities submitting an IP independently may request an exemption from the Housing Interventions component allocation and suballocation funding allowances described in subsection 1.4.3 of this Attachment I; and

B. Beginning with the IP covering fiscal years 2032-2035, all counties regardless of size may request such exemptions.

1.8.3 Relationship to Medi-Cal Funded Housing Services

BHSA Housing Interventions may not be used for housing services covered by Medi-Cal MCPs. (W&I § 5830(c)(2); BHSA Policy Manual § 7.C.7.) County must coordinate with MCPs as described in BHSA Policy Manual section 7.C.7 to:

A. Ensure Housing Interventions are not used for services covered by MCPs;

B. Support seamless connections from the county to MCPs for coverage of housing services and vice versa; and

C. Provide whole-person care and integrated housing services for MCP-enrolled members with significant behavioral health needs who meet eligibility criteria for BHSA.

1.8.4 Allowable Expenditures and Related Requirements

BHSA Housing Interventions may include the following types of expenditures, subject to the program requirements and limitations outlined in this section and BHSA Policy Manual sections 7.C.9 and 7.C.10:

A. Rental subsidies (BHSA Policy Manual § 7.C.9.1.)

B. Operating subsidies (BHSA Policy Manual § 7.C.9.2.)

C. Allowable settings (BHSA Policy Manual § 7.C.9.3.)

1) Non-time-limited permanent settings, including Permanent Supportive Housing (PSH)

2) Time limited interim settings

D. Other housing supports (BHSA Policy Manual § 7.C.9.4.)

1) Landlord Outreach and Mitigation Funds

2) Participant Assistance Funds

3) Housing Transition Navigation Services and Tenancy and Sustaining Services

4) Outreach and Engagement, up to a limit of seven percent of Housing Interventions

E. Other Housing Interventions requirements and policies (BHSA Policy Manual § 7.C.9.5)

1) County must ensure Housing Interventions are:

a. Operated in compliance with the core components of Housing First (W&I §§ 8255(b), 5830(a)(5));

b. Available to support Family Housing, as appropriate; and

c. Only used in connection with housing settings that meet minimum standards for habitability and quality.

2) County must operate the Housing Interventions component in accordance with Homeless Management Information System (HMIS) reporting requirements. (W&I § 8256(d)(3)(A).)

F. Capital development projects, up to a limit of 25 percent of Housing Interventions funding (W&I § 5892(a)(1)(A)(iii); BHSA Policy Manual § 7.C.10.)

1.9 Documentation Requirements for BHSA Services

A. County must ensure all mental health and SUD services funded under BHSA (with the exception of hospital inpatient and Narcotic Treatment Program services) comply with documentation requirements established in BHIN 23-068. (BHSA Policy Manual § 8.)

B. Documentation requirements do not apply to services and supports where this approach to clinical documentation requirements may be unsuitable, such as (BHSA Policy Manual § 8):

1) BHSA housing services;

2) Outreach programs, including BHSS Outreach and Engagement and outreach funded under FSP, where gathering identifying information is not feasible (e.g., outreach to homeless individuals and others who are not yet comfortable providing their information);

3) Warm lines and hotlines; and

4) Food support provided under FSP.

1.10 BHSA Oversight and Enforcement

1.10.1 DHCS Oversight and Enforcement

A. DHCS will conduct compliance reviews to assess County's compliance with BHSA program requirements as required under W&I section 5897(d). The reviews will be conducted as described in BHSA Policy Manual section 9.C.

1) County must comply with DHCS requests for documents and information needed to conduct compliance reviews, including (BHSA Policy Manual §§ 9.C.1-2.):

a. Submitting requested documents to DHCS prior to and during the review; and

b. Making personnel, including personnel employed by or under contract with County and BHSA-funded providers (including contracted providers and providers employed, owned, or operated by County) available for DHCS to interview.

B. If DHCS determines that County is out of compliance with BHSA requirements as set forth in State law, applicable DHCS guidance, and this Contract, DHCS may conduct enforcement actions, such as (W&I §§ 5897(e), 5963.04(e), 14197.7; BHSA Policy Manual § 9.D):

1) Administrative sanctions, including (W&I § 5963.04(e); BHSA Policy Manual § 9.D.1):

a. Imposing a corrective action plan (CAP) as described in BHSA Policy Manual section 9.D.1.1 or requiring County to revise its IP or annual update as described in BHSA Policy Manual section 9.D.1.2.

i. Administrative sanctions may be imposed for, among other reasons, failure to make adequate progress in meeting performance measures established by DHCS pursuant to W&I section 5963.04(b). DHCS can exercise this authority outside the standard IP and annual update submission timeline, including after County's BHOATR submission. (BHSA Policy Manual § 9.D.1.2.)

2) Temporary monetary withholds and monetary sanctions. (W&I §§ 5963.04(e)(3), 14197.7(n)(5); BHSA Policy Manual § 9.D.2.)

a. DHCS may impose temporary monetary withholds and monetary sanctions, as outlined in BHSA Policy Manual section 9.D.2, if County (W&I § 5963.04(e)(3)):

i. Fails to follow stakeholder engagement requirements for the IP or the 30-day comment period for the annual update and intermittent update, as described in W&I section 5963.03 and BHSA Policy Manual section 3.B;

i. Fails to allocate BHSA funds in accordance with statutory requirements, as set forth at W&I section 5892 and BHSA Policy Manual section 6.B;

ii. Fails to submit a complete, accurate, and timely BHOATR in accordance with W&I section 5963.04 and BHSA Policy Manual chapter 4; or

iii. Spends BHSA funds in a manner that significantly varies from its budget in the IP, annual update, or intermittent update.

C. County may appeal a temporary withhold or monetary sanction imposed pursuant to this subsection 1.10.1.A.2, above. County's appeal will be conducted in accordance with the requirements specified in BHSA Policy Manual section 9.D.2.5 and pursuant to procedures outlined in DHCS guidance. (W&I 14197.7(h), (k)-(m); BHIN 25-023.)

1.10.2 County Oversight

County must comply with BHSA Policy Manual Section 9.E and any other applicable DHCS guidance regarding oversight of BHSA-funded providers (including contracted providers as well as providers employed, owned, or operated by County).

A. County must ensure its behavioral health workforce, including all BHSA-funded providers (contracted providers and providers employed, owned, or operated by County) are well-supported and culturally and linguistically concordant with the population to be served, and robust enough to achieve the statewide and local behavioral health goals and measures as described in W&I section 5963.02(c)(8). (BHSA Policy Manual § 9.E.)

B. County must describe in the IP how County will conduct oversight of BHSA providers to ensure compliance with federal and state laws and regulations and requirements specified in the Policy Manual, as described in BHSA Policy Manual section 9.E.3. (W&I § 5963.02(c)(8)(I).)

C. County must execute a contract with each non-County provider (i.e., providers that are not owned or operated by County) receiving BHSA funds that meets the requirements in BHSA Policy Manual section 9.E.1.1. County must make a good-faith effort to execute the contract before the provider begins delivering BHSA-funded services.

    1) If County is unable to execute a contract before the delivery of BHSA-funded services, County must execute the contract within 120 calendar days from the commencement of BHSA-funded services, consistent with the time limit for provisional SMHS provider contracts. (BHSA Policy Manual § 9.E.1.1.)

    2) County must codify the applicable standards outlined in this subsection 1.10.2.D of this Attachment I in each County-contracted provider contract. (BHSA Policy Manual § 9.E.2.)

D. County must monitor each provider's compliance (including contracted providers, and providers employed, owned, or operated by County) with the following requirements as described in BHSA Policy Manual section 9.E.1.1:

    1) All program requirements applicable to the provider's BHSA-funded services;

2) Any requests for records, information, or onsite access by the county, DHCS or their designees for purposes of BHSA oversight;

3) BHSA fiscal policies, as set forth in subsection 1.5 of this Attachment I and BHSA Policy Manual section 6.C;

4) General standards for BHSA providers, which include ensuring providers are qualified to deliver services, comply with nondiscrimination requirements, and deliver services in a culturally competent manner, as specified in W&I section 5963.02(c)(8)(C)-(F) and BHSA Policy Manual section 9.E.2; and

5) County monitoring activities resulting from County's oversight of BHSA providers, as described in this subsection 1.10.2.F, below (BHSA Policy Manual § 9.E.3.)

E. For all providers (contracted providers, and providers employed, owned, or operated by County), County must: (BHSA Policy Manual § 9.E.1.2):

1) Maintain records of expenditures sufficient to comply with BHOATR requirements; and

2) Maintain policies and procedures to ensure compliance with the requirements described in this subsection 1.10.2.D, above.

F. Effective July 1, 2027, County must describe how they will conduct oversight of BHSA providers in the IP, and must conduct the following monitoring activities (W&I § 5963.02(c)(8)(I); BHSA Policy Manual § 9.E.3):

1) Adopt a monitoring schedule for BHSA-funded providers that includes periodic site visits;

2) Preserve provider monitoring records, including monitoring reports, county-approved provider CAPs, and confirmations of CAP resolutions; and

3) Provide monitoring records to DHCS at any time, upon DHCS' request.

2.1 Bronzan-McCorquodale Act

2.1.1 Overview

A. The Bronzan-McCorquodale Act realigned responsibility for administration of community mental health services, for the indigent population, to counties and provided a dedicated funding source. (Welfare and Institutions Code (W&I), § 5600.)

B. County's primary goal in using the funds is to provide an array of treatment options to seriously emotionally disturbed children and adults who have a serious mental disorder, in every geographic area, to the extent resources are available to County. (W&I §§ 5600.3, 5600.35, 5600.4.)

C. The mission of California's mental health system is to enable persons experiencing severe and disabling mental illnesses and children with serious emotional disturbances to access services and programs that assist them, in a manner tailored to each individual, to better control their illness, to achieve their personal goals, and to develop skills and supports leading to their living the most constructive and satisfying lives possible in the least restrictive available settings. (W&I § 5600.1.)

2.1.2 County Obligations

County must comply with all requirements in the Bronzan-McCorquodale Act (W&I § 5600 *et. seq*.), including the following:

A. County must comply with Chapter 3 of Part 2 of Division 5 of W&I (commencing with section 5700), including that County must fund children's services pursuant to the requirements of W&I sections 5704.5 and 5704.6.

B. County must comply with all reporting requirements pursuant to W&I sections 5610, 5664, and 5614(b)(4).

C. To the extent resources are available, County must maintain the program principles and array of treatment options required under W&I sections 5600.2 to 5600.9, inclusive. (W&I § 5614(b)(5).)

D. County must report data to the State required by the performance outcome systems for adults and children in accordance with W&I sections 5612 and 5613. (W&I §§ 5610, 5664, 5614(b)(6).)

2.2 Lanterman-Petris-Short Act

2.2.1 Overview

A. The Lanterman-Petris-Short (LPS) Act was enacted to end indefinite involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism; to provide prompt evaluation and treatment, to establish consistent personal rights standards, and to provide services in the least restrictive setting for individuals served under the Act. (W&I § 5001.)

B. Pursuant to W&I section 5400, DHCS administers the LPS Act and may adopt standards as necessary.

2.2.2 Designating Facilities for Involuntary Treatment

A. County must comply with applicable statutes, regulations, and DHCS standards and guidance pertaining to designating and monitoring facilities to provide involuntary evaluation and treatment services under the LPS Act and the Children's Civil Commitment and Mental Health Treatment Act. (W&I §§ 5008, 5120, 5121, 5150–5349.5, 5350–5372, 5585–5599, 5651(b)(2).)

2.2.3 Reporting and Data Submission Requirements

A. County must maintain data on the following (W&I § 5402):

1) The number of persons admitted for 72-hour evaluation and treatment, 14-day and 30-day periods of intensive treatment, and 180-day post-certification intensive treatment and the conditions for which they are held, including danger to self, danger to others, grave disability due to mental health disorder, grave disability due to severe substance use disorder, grave disability due to both a mental health disorder and a severe substance use disorder;

2) The number of persons transferred to mental health facilities pursuant to section 4011.6 of the Penal Code;

3) The number of persons for whom temporary conservatorships are established, and the number of persons for whom conservatorships are established in the County;

4) Services provided, including payer information, and clinical outcomes for the individuals identified in paragraphs (1) through (3) of this subsection 2.2.3.A, above;

5) Demographic data for the individuals identified in paragraphs (1) through (3) of this subsection 2.2.3.A, above. Demographic data must include age, sex, gender identity, race, ethnicity, primary language, sexual orientation, veteran status, and housing status, to the extent those data are available;

6) The number of persons admitted or detained once, between two and five times, between six and eight times, and greater than eight times for each type of admission or detention including 72-hour evaluation and treatment, 14-day and 30-day periods of intensive treatment, and 180-day postcertification intensive treatment;

7) The waiting periods for individuals prior to receiving an evaluation in a designated and approved facility pursuant to W&I sections 5150 or 5151 and waiting periods for individuals prior to receiving treatment services in a designated facility, including the reasons for waiting periods;

8) Number of all County-contracted beds; and

9) Number and outcomes for the following:

a. The certification review hearings (W&I § 5256);

b. The petitions for writs of habeas corpus filed (W&I § 5275);

c. The judicial review hearings held (W&I § 5276);

d. The petitions for capacity hearings filed (W&I § 5332); and

e. The capacity hearings held (W&I § 5334).

B. County must provide data as required in this subsection 2.2.3.A, above, or other information, records, and reports, which DHCS deems necessary for the purposes of W&I section 5402 on a quarterly basis, or more frequently as required by DHCS.

C. County must maintain data on the number of persons whose rights under W&I section 5325 were denied and the right or rights which were denied. Quarterly, County must provide DHCS with a report of this information (W&I § 5326.1.)

D. County must collect information regarding the number of patients receiving treatment for each patient type, total treatments given, complications attributed to treatment, excessive treatment, and payment source of patients, and report this information quarterly to DHCS (W&I § 5326.15(a).)

2.3 Laura's Law

2.3.1 County Obligations

A. County must comply with Article 9 of Part 1 of Division 5 of W&I (Laura's Law), unless its governing body has passed a resolution in compliance with W&I section 5349.

B. County either individually or pursuant to its memorandum of understanding with a group of Counties to which County has joined for participation in Laura's Law, must:

1) Maintain and provide data to DHCS regarding the services County provides under Laura's Law. (W&I § 5348.) The report must include an evaluation of the effectiveness of the strategies employed by each program in reducing homelessness and hospitalization of persons in the program and in reducing involvement with local law enforcement by persons in the program. County must maintain and include in the report to DHCS all of the information enumerated in W&I section 5348(d).

2) Pay for the provision of services under W&I sections 5347 and 5348 using funds distributed to the counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount within the Support Services Account of the Local Revenue Fund 2011, funds from the Behavioral Health Services Fund when included in County plans pursuant to W&I sections 5847 or 5963.02 and any other funds from which the Controller makes distributions to the counties for those purposes. (W&I § 5349.)

2.4 Projects For Assistance In Transition From Homelessness Program

2.4.1 Overview

A. Pursuant to Title 42 of the United States Code (USC), 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.

B. 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.

2.4.2 Application for Funds and Compliance with Requirements

A. County must submit its Request for Application (RFA) responses and required documentation specified in DHCS' RFA to receive PATH funds. County must complete its RFA responses in accordance with the instructions, enclosures and attachments distributed annually from DHCS by email.

B. If County applied for and DHCS approved its request to receive PATH grant funds, the following documents are incorporated by reference in this Contract and County must comply with all applicable provisions:

1) The Notice of Funding Opportunity (NOFO) issued by Substance Abuse and Mental Health Services Administration (SAMHSA) for the PATH program;

2) The State's approved application to SAMHSA for PATH funding;

3) The federal Notice of Award issued to DHCS;

4) DHCS's RFA;

5) County's RFA responses, including the proposed scope of work and budget details.

2.4.3 Federal Authorities

The PATH grant is a federal award within the meaning of Title 2 Code of Federal Regulations (CFR) parts 200 and 300. County's receipt of PATH funds is a subaward to County. County is a subrecipient and subject to all applicable requirements in 2 CFR parts 200 and 300, including, but not limited to, the County requirement to have a single audit performed for PATH funds in accordance with the audit requirements therein.

2.5 Community Mental Health Services Block Grant

2.5.1 Overview

A. Pursuant to Title 42 USC section 300x *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).

B. County mental health agencies utilize MHBG funding to provide a broad array of mental health services within their mental health system of care programs. These programs provide services to the following target populations: children and youth with serious emotional disturbances and adults and older adults with serious mental illnesses.

2.6 Application for Funds and Compliance with Requirements

A. County must submit its RFA responses and required documentation specified in DHCS' RFA to receive MHBG funding. County must complete its RFA responses in accordance with the instructions, enclosures and attachments.

B. If County applied for and DHCS approved its request to receive MHBG grant funds, the following documents are incorporated by reference in this Contract and County must comply with all applicable provisions:

1) The NOFO issued by SAMHSA for the MHBG program;

2) The State's approved application to SAMHSA for MHBG funding;

3) The federal Notice of Award issued to DHCS;

4) DHCS's RFA;

5) County's RFA responses, including the proposed scope of work and budget details.

2.6.1 Federal Authorities

A. The MHBG grant is a federal award within the meaning of 2 CFR parts 200 and 300. County's receipt of MHBG funds is a subaward to County. County is a subrecipient and subject to all applicable

requirements in 2 CFR parts 200 and 300, and 45 CFR part 96 including, but not limited to, the County requirement to have a single audit performed for MHBG funds in accordance with the audit requirements therein.

B. MHBG Funding must not be used to supplant existing resources. County expenditure of MHBG Funds are subject to State and federal oversight, including on-sight program performance reviews and federal audits. (42 USC § 300x-4(b); 42 CFR § 200.503.)

2.7 Substance Use Prevention, Treatment, and Recovery Services Block Grant

2.7.1 Overview

A. Pursuant to Title 42 USC section 300x *et seq.*, the State of California has been awarded the federal Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUBG).

B. County Alcohol and Other Drug Programs utilize SUBG funding to provide a broad array of alcohol and other drug treatment and prevention services within their system of care programs.

2.7.2 Application for Funds and Compliance with Requirements

A. County must submit its RFA responses and required documentation specified in DHCS' RFA to receive SUBG funding. County must complete its RFA responses in accordance with the instructions, enclosures and attachments.

B. If County applied for, and DHCS approved its request to receive SUBG funds, the following documents are incorporated by reference in this Contract and County must comply with all applicable provisions:

1) The NOFO issued by SAMHSA for the SUBG program;

2) The State's approved application to SAMHSA for SUBG funding;

3) The federal Notice of Award issued to DHCS;

4) DHCS's RFA; and

5) County's RFA responses, including the proposed scope of work and budget details.

2.7.3 Federal Authorities

A. The SUBG is a federal award within the meaning of 2 CFR parts 200 and 300. County's receipt of SUBG funds is a subaward to County. County is a subrecipient and subject to all applicable requirements in 2 CFR parts 200 and 300, and Title 45 CFR part 96, including, but not limited to, the County

requirement to have a single audit performed for SUBG funds in accordance with the audit requirements therein.

B. SUBG Funding must not be used to supplant existing resources. County expenditure of SUBG Funds are subject to State and federal oversight, including on-sight program performance reviews and federal audits. (45 CFR § 96.134(a), 42 CFR § 200.503.)

2.8 Crisis Counseling Assistance and Training Program

2.8.1 Overview

A. Pursuant to Title 42 USC section 5183, and upon the issuance of a Presidential declaration of a major disaster, the State of California may be awarded Federal Emergency Management Agency (FEMA) funding for the Crisis Counseling Assistance and Training Program (CCP) pursuant to 44 CFR section 206.171.

B. The CCP supports short-term interventions that involve assisting disaster survivors in understanding their current situation and reactions, mitigating stress, developing coping strategies, providing emotional support, and encouraging linkages with other individuals and agencies that help survivors in their recovery process. These funds are used to provide services to all individuals affected during a disaster.

2.8.2 Request for Funds and Compliance with Requirements

A. Participation in the CCP is optional.

B. If County participates in the CCP, it must comply with all applicable federal and State requirements, including:

1) FEMA or SAMHSA approved funding application and budget;

2) Applicable requirements in the Notice of Award (from FEMA or SAMHSA) to the State, including special and standard program conditions or terms, supplemental grant information, and the federal Health and Human Services Grants Policy Statement; and

3) 44 CFR section 206.171, 42 CFR part 38, and FEMA or SAMHSA CCP secondary guidance.

2.8.3 Federal Authorities

A. The CCP is a federal award within the meaning of 2 CFR part 200. County's receipt of CCP funding is a subaward to County. County is a subrecipient and subject to all applicable requirements in 2 CFR part 200 and 44 CFR section 206.207(c), including, but not limited to, the County

requirement to have a single audit performed for CCP funds in accordance with the audit requirements therein.

B. CCP Funding must not be used to supplant existing resources. County expenditure of CCP Funds are subject to State and federal oversight, including on-sight program performance reviews and federal audits. (44 CFR § 206.171(k), 42 CFR § 38.9.)

C. For reference, FEMA Crisis Counseling Assistance and Training Program (FEMA secondary guidance), is accessible at the following link: https://www.samhsa.gov/technical-assistance/dtac/ccp.

Exhibit A, ATTACHMENT II

Table of Contents

1.1 Dispute Resolution Process for Projects For Assistance In Transition From Homelessness, Community Mental Health Services Block Grant, and Substance Use Prevention, Treatment, and Recovery Services Block Grant

1.1.1 Dispute Resolution Process

A. Notwithstanding Exhibit D, if a dispute arises between County and DHCS regarding County's compliance with subsection 2.4 (Projects For Assistance In Transition From Homelessness), subsection 2.5 (Community Mental Health Services Block Grant), or subsection 2.6 (Substance Use Prevention, Treatment and Recovery Services Block Grant) of Attachment I, the County must seek resolution using the process outlined in this subsection 1.1.1.D, below.

B. County must first informally discuss the problem with the DHCS Project Representative listed in subsection 1.1.1.D, below. If County and DHCS are unable to resolve the problem informally, County must mail a written Statement of Dispute, with supporting evidence, to DHCS at the address listed in subsection 1.1.1.D, below. The Statement of Dispute must describe the issues in dispute, the legal authority or other basis for County's position, and the remedy sought.

C. The Branch Chief of DHCS' Federal Grants Branch will decide the dispute and mail a written decision to the County within twenty (20) working days of receiving the Statement of Dispute from County. The decision will be in writing, and include a statement of the reasons for the decision that addresses each issue raised by County. If applicable, the decision will also indicate any action County must take to comply with the decision. The Branch Chief's decision will be the final administrative determination of DHCS.

D. 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 must be directed to the following:

California Department of Health Care Services
Community Services Division/Federal Grants Branch
Attention: Waheeda Sabah
1501 Capitol Avenue
P.O. Box Number 997413, Mail Stop 2624
Sacramento, CA, 95899-7413

1.2 Welfare and Institutions Code section 5751.7 Waiver

1.2.1 Overview

A. County must comply with Welfare and Institutions Code (W&I) 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 must submit the waiver request on Exhibit A, Attachment III of this Contract to DHCS.

B. DHCS must 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 must prohibit health facilities from admitting minors into psychiatric treatment with adults.

C. County must submit the waiver request to DHCS at the time County submits this Contract, signed by County, to DHCS for execution. County must complete Exhibit A, Attachment III and attach it to this Contract.

D. Execution of this Contract by DHCS will not constitute approval of a waiver submitted pursuant to this section.

E. Any waiver granted in the prior fiscal year's Contract will be deemed to continue until either party chooses to discontinue it, as specified in Exhibit A, Attachment III. Execution of this Contract will continue independently of the waiver review and approval process.

F. In unusual or emergency circumstances, when County needs to request waivers after this Contract has been executed, these requests should be e-mailed, with the subject line "Performance Contract: Unusual or Emergency Circumstances", immediately to the contact listed in this subsection 1.2.1.G, below.

G. County must submit waiver requests for designated facilities by e-mail to:

California Department of Health Care Services
Licensing and Certification Division
Mental Health Licensing and Certification Branch
e-mail: LPSinfo@dhcs.ca.gov.

H. Each admission of a minor to a facility that has an approved waiver must be reported to the Local Behavioral Health Director.

1.3 Reporting, Data Submission, and Data Sharing Requirements

1.3.1 Data Requirements

A. County must comply with all data and information submission requirements specified in State and federal law, this Contract, and all applicable DHCS guidance. (W&I §§ 5610(a)(1), 5664(a), 5963.04(a)(2).) Applicable laws include:

1) Title 42 of the United States Code (USC), sections 290cc-21 through 290ee-10 and 300x through 300x-68, inclusive;

2) W&I sections 5000 through 5987; and

3) All corresponding regulations that implement, interpret or make specific, these federal and State laws.

B. County must provide data and information regarding the following programs as required by, and in accordance with, federal and State laws and DHCS guidance:

1) The Behavioral Health Services Act (BHSA), as outlined in Exhibit A, Attachment I, Article 1.0;

2) Projects for Assistance in Transition from Homelessness (PATH), as outlined in Article 2.0, subsection 2.4 of Attachment I;

3) Community Mental Health Services Block Grant (MHBG), as outlined in Article 2.0, subsection 2.5 of Attachment I;

4) Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUBG), as outlined in Article 2.0, subsection 2.6 of Attachment I; and

5) County provision of community behavioral health services provided with 1991 and 2011 realignment funds (other than Medi-Cal).

1.3.2 Reporting Requirements

A. County must comply with all reporting requirements as specified in DHCS guidance and State and federal law. (W&I §§ 5610(a)(1), 5664(a), 5651(b)(7), 5963.04(e)(3)(A); Health & Safety Code §§ 11754(a),11755(q)(1).)

B. County must submit complete and accurate information to DHCS, and as applicable to the Behavioral Health Services Oversight and Accountability Commission, including, but not limited, to the following (W&I §§ 5610(a)(1), 5963.04(a)(1)-(2)):

1) Client and Service Information (CSI) System Data, as specified in Title 9 of the California Code of Regulations (CCR) section 3530.10 and according to the specifications set forth in DHCS' CSI Data Dictionary. County must:

   a. Report complete and accurate monthly CSI data to DHCS within 60 calendar days after the end of the month in which services were provided.

   b. If complete and accurate data are not reported within 60 calendar days, County must be in compliance with an approved plan of correction.

   c. Make diligent efforts to minimize errors on the CSI error file.

   d. Correct all errors on the CSI error file.

   e. Notify DHCS 90 calendar days prior to any change in reporting system or change of automated system vendor.

2) Full Service Partnership Performance Outcome data (9 CCR § 3530.30)

3) Consumer Perception Survey (9 CCR § 3530.40)

4) Substance use disorder treatment services data in accordance with W&I section 5891.5(b).

C. Effective January 1, 2027, County must capture and submit all behavioral health individual service-level (ISL) encounter data to DHCS pursuant to applicable DHCS guidance. (W&I §§ 5610(b), (d), 5664(a).)

D. 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 information needs, both DHCS and County agree to provide notice to the other party as soon as feasible prior to implementation. This notice must 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.

E. County must submit complete, accurate, reasonable, and timely data as mandated by State and federal law and DHCS guidance, and in a form and manner specified by DHCS.

F. If applicable to a specific federal or State funding source covered by this Contract, County must 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 guidance.

1.3.3 Data Sharing Requirements

A. County must comply with all data sharing requirements as mandated by and in accordance with applicable federal and State law and applicable Data Exchange Framework Policies and Procedures and DHCS guidance. (W&I §§ 14197.71(d)(1), 14184.102(j).)

B. County must implement data sharing policies and procedures and adhere to required state and federal care coordination rules and regulations, including bidirectionally sharing the minimum necessary individual data in real time with other counties, Managed Care Plans (MCPs), County-contracted providers, and other delivery systems and partners that support service delivery, care coordination, referrals, closed loop referrals, and care transitions. (W&I § 14197.71(d)(1).)

Exhibit A, Attachment III
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. The specific plan and administrative procedures established by the County ensuring that a designated facility admitting both adults and minors will house them in specific and separate housing arrangements.
4. Name, address and telephone number of the facility:
   - Number of the facility's beds designated for involuntary treatment
   - Type of facility, license(s), certification(s) or accreditation(s) held (including licensing, certifying, or accrediting agency and license, certificate, or accreditation number)
   - A copy of the facility's current license, certificate or accreditation and a description of the program, including target population and age range, and genders to be admitted to the designated facility.
5. If applicable, include a copy of the County's approval letter indicating the County has designated a facility to house both minors and adults.

To rescind the waiver, either party shall send a letter to the other party on official letterhead signed by their respective County 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 waivered as of this date. When DHCS denies or rescinds a waiver issued to a County, the facility and the County Behavioral Health Director or designee shall receive written notification from DHCS, by certified mail or e-mail. The notice shall include the decision, the basis for the decision, and any supporting documentation. DHCS' denial or rescission is the final administrative decision and there is no further review or appeal.

Exhibit B – Budget Detail Provisions

1.0 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 Contract does not appropriate sufficient funds for the program, this Contract will be of no further force and effect. In this event, DHCS will have no liability to pay any funds whatsoever to County or to furnish any other considerations under this Contract and County will not be obligated to perform any provisions of this Contract.

B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, DHCS will have the option to either cancel this Contract with no liability occurring to DHCS, or offer an agreement amendment to County to reflect the reduced amount.

Exhibit D
Special Terms and Conditions

The provisions herein apply to this Agreement **unless** the applicable conditions do not exist, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the provisions are removed by reference on the face of this Agreement.

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

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

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

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount; agreement is federally funded, etc.).

Index of Special Terms and Conditions

1. Federal Equal Opportunity Requirements

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

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action will include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. § 4212). Such notices will state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.

b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.

c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and will post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. § 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, ‘Amending Executive Order 11246 Relating to Equal Employment Opportunity,‘ and as supplemented by regulation at 41 Code of Federal Regulations (C.F.R.) Part 60, “Office of the Federal Contract Compliance

Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 C.F.R. Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 C.F.R. Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

2. Travel and Per Diem Reimbursement

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

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

3. Procurement Rules

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

a. **Equipment/Property definitions**

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

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

2) **Minor equipment/property:** A tangible item having a base unit cost of less than $5,000 with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.

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

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

1) Equipment/property purchases must not exceed $50,000 annually.

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

2) All equipment/property purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 will also apply, if equipment/property purchases are delegated to subcontractors that are either a government or public entity.

3) Nonprofit organizations and commercial businesses must use a procurement system that meets the following standards:

   a) Maintain a code or standard of conduct that will govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent will participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.

   b) Procurements must be conducted in a manner that provides, to the maximum extent practical, open, and free competition.

   c) Procurements must be conducted in a manner that provides for all of the following:

      i. Avoid purchasing unnecessary or duplicate items.

      ii. Equipment/property solicitations must be based upon a clear and accurate description of the technical requirements of the goods to be procured.

      iii. Take positive steps to utilize small and veteran owned businesses.

d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of $5,000 or more for commodities, supplies, equipment/property, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or

desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.

e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.

f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.

g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) must also be maintained on file by the Contractor and/or subcontractor for inspection or audit.

h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

4. Equipment / Property Ownership / Inventory / Disposition

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

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

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

1) **Reporting of Equipment/Property Receipt**

DHCS requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by DHCS or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor must report the

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

2) **Annual Equipment/Property Inventory**

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

a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).

b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.

c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' Asset Management Unit.

b. Title to State equipment and/or property will not be affected by its incorporation or attachment to any property not owned by the State.

c. Unless otherwise stipulated, DHCS will be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.

d. The Contractor and/or Subcontractor must maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.

1) In administering this provision, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor must immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor must promptly submit one copy of the theft report to the DHCS Program Contract Manager.

e. Unless otherwise stipulated by the Program funding this Agreement, equipment

and/or property purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, must only be used for performance of this Agreement or another DHCS agreement.

f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor must provide a final inventory report of equipment and/or property to the DHCS Program Contract Manager and must, at that time, query DHCS as to the requirements, including the manner and method, of returning state equipment and/or property to DHCS. Final disposition of equipment and/or property will be at DHCS expense and according to DHCS instructions. Equipment and/or property disposition instructions will be issued by DHCS immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, DHCS may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different DHCS agreement.

g. **Motor Vehicles**

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

1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor must return such vehicles to DHCS and must deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.

2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California will be the legal owner of said motor vehicles and the Contractor will be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.

3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, must hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator must also hold a State of California Class B driver's license.

4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, must provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

Automobile Liability Insurance

a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of $1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.

b) The Contractor and/or Subcontractor must, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance must identify the DHCS contract or agreement number for which the insurance applies.

c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, will remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.

d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.

e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:

   I. The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Care Services).

   II. The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.

   III. The insurance carrier must notify the California Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices will contain a reference to each agreement number for which the insurance was obtained.

f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance

Management. The Contractor will be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services will be performed prior to obtaining said approval.

g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

5. Subcontract Requirements

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

a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing $5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding $5,000, the Contractor must obtain at least three bids or justify a sole source award.

1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.

2) DHCS may identify the information needed to fulfill this requirement.

3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:

a) A local governmental entity or the federal government,

b) A State college or State university from any State,

c) A Joint Powers Authority,

d) An auxiliary organization of a California State University or a California community college,

e) A foundation organized to support the Board of Governors of the California Community Colleges,

f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,

g) Firms or individuals proposed for use and approved by DHCS' funding program via acceptance of an application or proposal for funding or pre/post contract award negotiations,

h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Volume 1 Chapter 5 Section 5.80 Subsection B.

i) Entities whose name and budgeted costs have been submitted to DHCS in response to a competitive Invitation for Bid or Request for Proposal.

b. Agreements with governmental or public entities and their auxiliaries, or a Joint Powers Authority

1) If the total amount of all subcontracts exceeds twenty-five percent (25%) of the total agreement amount or $50,000, whichever is less and each subcontract is not with an entity or of a service type described in paragraph a(3) herein, DHCS will:

a) Obtain approval from DGS to use said subcontracts, or

b) If applicable, obtain a certification from the prime Contractor indicating that each subcontractor was selected pursuant to a competitive bidding process requiring at least three bids from responsible bidders, or

c) Obtain attestation from the Secretary of the California Health and Human Services Agency attesting that the selection of the particular subcontractor(s) without competitive bidding was necessary to promote DHCS' program needs and was not done for the purpose of circumventing competitive bidding requirements.

2) When the conditions of b(1) apply, each subcontract that is not with a type of entity or of a service type described in paragraph a(3) herein, must not commence work before DHCS has obtained applicable prior approval to use said subcontractor. DHCS will inform the Contractor when DHCS has obtained appropriate approval to use said subcontractors.

c. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.

1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor must take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.

2) The requirements specified in Provision 28 entitled, "Use of Disabled Veteran Business Enterprises (DVBEs)" will apply to the use and substitution of DVBE subcontractors.

3) The requirements specified in Provision 30 entitled, "Use of Small Business Subcontractors" will apply to the use and substitution of small business subcontractors.

d. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of $5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers must be confirmed in writing by DHCS.

e. Contractor must maintain a copy of each subcontract entered into in support of this Agreement and must, upon request by DHCS, make copies available for approval, inspection, or audit.

f. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.

g. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.

h. When entering into a consulting agreement with DHCS, the contract must include detailed criteria and a mandatory progress schedule for the performance of the contract, and must require Contractor to provide a detailed analysis of the costs of performing the contract.

i. The Contractor must ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.

j. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

"(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."

k. Unless otherwise stipulated in writing by DHCS, the Contractor will be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.

l. Contractor must, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 18, 19, 20, 32, 37, 38 and/or other numbered provisions herein that are deemed applicable.

6. Income Restrictions

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

7. Audit and Record Retention

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

a. The Contractor and/or Subcontractor must maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.

b. The Contractor's and/or Subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records must be subject at all reasonable times to inspection, audit, and reproduction.

c. Contractor agrees that DHCS, DGS, the California State Auditor, or their designated representatives including, but not limited to, the Comptroller General of the United States will have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Government Code (Gov. Code) § 8546.7, Title 2 Code of California Regulations (C.C.R.), § 1896.77 and other applicable State laws.) The Contractor must comply with the above and be aware of the penalties for violations of fraud and for obstruction of an investigation under applicable State laws.

d. The Contractor and/or Subcontractor must preserve and make available his/her records (1) for a period of six years for all records related to Disabled Veteran Business Enterprise (DVBE) participation (Military and Veterans Code (Mil. & Vet. Code) § 999.55), if this Agreement involves DVBE participation, and three years for all other contract records from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.

    1) If this Agreement is completely or partially terminated, the records relating to the work terminated must be preserved and made available for a period of three years from the date of any resulting final settlement.

    2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

e. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other

data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

f. For agreements with non-profit entities funded in part or whole with federal funds in the amount of $750,000 or more, the Contractor must, if applicable, comply with the Single Audit Act and the audit requirements set forth in 2 C.F.R. § 200.501 et seq.

g. For Direct Service Contracts as defined in Health & Saf. Code § 38040 in the amount of $25,000 or more, the Contract must comply with the audit requirements set forth in Health & Saf. Code § 38040.

8. Site Inspection

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

9. Federal Contract Funds

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

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

b. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.

c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.

d. DHCS has the option to invalidate or cancel the Agreement with 30-days

advance written notice or to amend the Agreement to reflect any reduction in funds.

10. Termination

a. **For Cause**

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

b. **For Convenience**

The State retains the option to terminate this Agreement, in whole or in part, without cause, at the State's convenience, without penalty, provided that written notice has been delivered to the Contractor at least thirty (30) calendar days prior to such termination date. In the event of termination, in whole or in part, under this paragraph, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials related to the terminated portion of the Contract including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The Contractor will be entitled to compensation upon submission of an invoice and proper proof of claim for the services and products satisfactorily rendered, subject to all payment provisions of the Agreement. Payment is limited to expenses necessarily incurred pursuant to this Agreement up to the date of termination.

11. Intellectual Property Rights

(Applicable to all agreements that may be fund, in whole or part, the creation and development Intellectual Property.)

a. The State will be the owner of all rights, title, and interest in any and all intellectual property or other products or materials created or developed pursuant to this Agreement, whether or not published, produced, manufactured or distributed. The copyright, patent and/or other intellectual property rights to any and all products created, provided or developed, in whole or part, under this Agreement, whether or not published, produced, manufactured or distributed belongs to the State from the moment of creation.

b. The State retains all rights to use, reproduce, distribute, or display any products or materials created, provided, developed, or produced under this Agreement and any derivative products based on Agreement products or materials, as well as all other rights, privileges, and remedies granted or reserved to a copyright, patent, service mark or trademark owner under statutory and common law.

c. Contractor agrees to cooperate with State and to execute any document(s) that may be necessary to give the foregoing provisions full force and effect, including but not limited to, an assignment of trademark, copyright or patent rights. Contractor, subject to reasonable availability, agrees to give testimony and take all further acts necessary to acquire, transfer, maintain, and enforce the State's intellectual property rights and interest.

d. Contractor agrees to cooperate with the State in assuring the State's sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor must require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to the State all rights, title and interest in Intellectual Property conceived, developed, derived from, or reduced to practice by the subcontractor, Contractor or the State and which result from this Agreement or any subcontract.

e. Contractor agrees not to incorporate into or make the works developed, dependent upon any original works of authorship or Intellectual Property Rights of third parties without first (a) obtaining State's prior written permission, and (b) granting to or obtaining for State, without additional compensation, a nonexclusive, royalty-free, paid-up, irrevocable, perpetual, world-wide license, to use, reproduce, sell, modify, publicly and privately display and distribute, for any purpose whatsoever, any such prior works.

f. Contractor will retain title to all of its Intellectual Property to the extent such intellectual Property is in existence prior to the effective date of this Agreement. **Unless otherwise specified in the Statement of Work in contracts other than those funded, in part or whole, by federal funds (see paragraph k below)**, Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in

the Intellectual Property resulting from this Agreement. Proprietary software packages that are provided at established catalog or market prices and sold or leased to the general public will not be subject to this license provision.

g. In the case of copyrighted materials, all materials distributed under the terms of this Agreement, and any reproductions or derivative works thereof, must include a notice of copyright in a place that can be visually perceived at the direction of the State. This notice must be placed prominently on products or materials and set apart from other matter on the page or medium where it appears. The notice "Copyright" or "©", the year in which the work was first created, and the Department of Health Care Services DHCS", or other appropriate mark as directed by DHCS, must be included on any such products or materials.

h. Contractor represents and warrants that:

1) It is free to enter into and fully perform this Agreement.

2) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.

3) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or the State and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any State, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

4) Neither Contractor's performance nor any part of its performance will violate the right of privacy of or constitute a libel or slander against any person or entity.

5) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real property, sites, locations, property or props that may be used or shown.

6) It has not granted and will not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to the State in this Agreement.

7) It has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Agreement for the acquisition,

operation or maintenance of computer software in violation of copyright laws.

8) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.

i. THE STATE MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

j. INTELLECTUAL PROPERTY INDEMNITY

1) Contractor must indemnify, defend and hold harmless the State and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of the State's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or the State and which result directly or indirectly from this Agreement. This indemnity obligation will apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. The State reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against the State.

2) Should any Intellectual Property licensed by the Contractor to the State under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve the State's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to the State. The State will have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for the State to continue using the licensed Intellectual Property; or replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, the State will be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in

equity.

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

k. If this Agreement is funded in whole or part by federal funds, the State will retain all Intellectual Property rights, title, and ownership, which result directly or indirectly from the Agreement pursuant to applicable federal law including, but not limited to, 45 C.F.R. § 75.322 and 45 C.F.R. § 95.617, except as provided in 37 C.F.R. Part 401.14. However, the federal government will have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

l. The provisions set forth herein will survive any termination or expiration of this Agreement.

12. Air or Water Pollution Requirements

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

a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. § 7606), Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations.

b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7401 et seq.), as amended, and the Clean Water Act (33 U.S.C. § 1251 et seq.), as amended.

13. Prior Approval of Training Seminars, Workshops or Conferences

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

14. Confidentiality of Information

a. The Contractor and its employees, agents, or subcontractors must protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.

b. The Contractor and its employees, agents, or subcontractors must not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.

c. The Contractor and its employees, agents, or subcontractors must promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.

d. The Contractor must not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.

e. For purposes of this provision, identity will include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

15. Documents, Publications and Written Reports

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

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

16. Dispute Resolution Process

a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance

between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.

1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor must direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance must state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief will render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief will respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.

2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor must include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal must be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee will meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee will be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal. The decision rendered by the Deputy Director or his/her designee will be the final administrative determination by the Department.

b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code (Health & Saf. Code) § 100171.

c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence will be directed to the DHCS Program Contract Manager.

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

e. Notwithstanding any dispute, the Contractor shall diligently continue performance of the Contract (including matters subject to dispute to the maximum extent possible).

17. Subrecipient Compliance

(Applicable to agreements in which a Subrecipient receives federal funding. This does not apply to Medi-Cal programs.)

Per 2 C.F.R. § 200.93, a Subrecipient is a non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal award. Subrecipients must comply with certain requirements, including without limitation, audit requirements, as set forth in 2 C.F.R. Part 200, as applicable to Subrecipients. Subrecipients may be subject to applicable monitoring activities by DHCS as required in 2 C.F.R. § 200.332.

18. Human Subjects Use Requirements

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

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

19. Debarment and Suspension Certification

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

a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 2 C.F.R. Part 180, 2 C.F.R. Part 376.

b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:

    1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

    2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any other offense indicating a lack of business integrity or business honesty that seriously affects its business honesty;

    3) Are not presently indicted for or otherwise criminally or civilly charged by a

governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and

4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

5) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 C.F.R. Part 180, Subpart C as supplemented by 2 C.F.R. Part 376.

6) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 C.F.R .part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.

7) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor must submit an explanation to the DHCS Program Contract Manager.

d. The terms and definitions herein have the meanings set out in 2 C.F.R. Part 180 as supplemented by 2 C.F.R. Part 376.

e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

20. Smoke-Free Workplace Certification

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

a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.

b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.

c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.

d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

21. Drug Free Workplace Act of 1988

The Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:

a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace.

b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.

c. Employees must notify their employer of any conviction of a criminal drug statue no later than five days after such conviction.

d. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy that abuse of this drug will also not be tolerated in the workplace.

e. Contractors of federal agencies are required to certify that they will provide drug-free workplaces for their employees.

22. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, DHCS

will have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

23. Payment Withholds

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

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

24. Progress Reports or Meetings

(Applicable to consultant service agreements and, at DHCS' option, other agreements.)

a. Contractor shall submit progress reports or attend meetings with state personnel at intervals determined by DHCS to determine if the Contractor is on the right track, whether the project is on schedule, provide communication of interim findings, and afford occasions for airing difficulties or special problems encountered so that remedies can be developed quickly.

b. At the conclusion of this Agreement and if applicable, Contractor shall hold a final meeting at which Contractor shall present any findings, conclusions, and recommendations. If required by this Agreement, Contractor shall submit a comprehensive final report.

25. Performance Evaluation

a. For all consultant service agreements of $5000 or more:

   1) The Contractor's performance under this Agreement will be evaluated at the conclusion of the term of this Agreement. The evaluation will include, but not be limited to:

      a) Whether the contracted work or services were completed as specified in the Agreement and reasons for and amount of any cost overruns.

      b) Whether the contracted work or services met the quality standards specified in the Agreement.

      c) Whether the Contractor fulfilled all requirements of the Agreement and if not, in what ways the Contractor did not fulfill the contract.

      d) Factors outside the control of the Contractor, which caused difficulties in Contractor performance. Factors outside the control of the Contractor will not include a Subcontractor's poor performance.

      e) Other information the awarding agency may require.

f) How the Contract results and findings will be utilized to meet the agency goals.

2) The evaluation of the Contractor will not be a public record.

b. For all other agreements except grant agreements:

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

26. Officials Not to Benefit

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

27. Prohibited Use of State Funds for Software

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

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

28. Use of Disabled Veteran's Business Enterprises (DVBE)

(Applicable to agreements over $10,000 in which the Contractor committed to achieve DVBE participation. Not applicable to agreements and amendments specifically exempted from DVBE requirements by DHCS.)

a. The State Legislature has declared that a fair portion of the total purchases and contracts or subcontracts for property and services for the State be placed with disabled veteran business enterprises.

b. All DVBE participation attachments, however labeled, completed as a condition of bidding, contracting, or amending a subject agreement, are incorporated herein and made a part of this Agreement by this reference.

c. Contractor agrees to use the proposed DVBEs, as identified in previously submitted DVBE participation attachments. Contractor understands and agrees to comply with the requirements set forth in Mil. & Vet. Code § 999 et seq. in that should award of this Contract be based on part on its commitment to use the DVBE subcontractor(s) identified in its bid or offer, per Mil. & Vet. Code § 999.5(g), a DVBE subcontractor may only be replaced by another DVBE subcontractor and must be approved by both DHCS and the DGS prior to the commencement of any work by the proposed subcontractor. Changes to the

scope of work that impact the DVBE subcontractor(s) identified in the bid or offer and approved DVBE substitutions will be documented by contract amendment.

d. Requests for DVBE subcontractor substitution must include:

   1) A written explanation of the reason for the DVBE substitution.

   2) A written description of the business enterprise that will be substituted, including its DVBE certification status and contact information.

   3) A written description of the work to be performed by the substituted DVBE subcontractor and an identification of the percentage share/dollar amount of the overall contract that the substituted subcontractor will perform.

   4) One or more of the permissible justifications for substituting a DVBE subcontractor as found in 2 C.C.R. § 1896.73(g).

e. Failure of the Contractor to seek substitution and adhere to the DVBE participation level identified in the bid or offer may be cause for contract termination, recovery of damages under rights and remedies due to the State, and penalties as outlined in Mil. & Vet. Code§ 999.9 and other applicable State laws.

f. Upon completion of this Contract, DHCS requires the Contractor to certify using the Prime Contractor's Certification – DVBE Subcontracting Report (STD 817), all of the following:

   1) The total amount the prime Contractor received under the Agreement;

   2) The name, address, Contract number and certification ID Number of the DVBE(s) that participated in the performance of this Contract;

   3) The amount and percentage of work the prime Contractor committed to provide to one or more DVBE(s) under the requirements of the Contract and the total payment each DVBE received from the prime Contractor;

   4) That all payments under the Contract have been made to the DVBE(s); and

   5) The actual percentage of DVBE participation that was achieved. Upon request, the prime Contractor must provide proof of payment for the work.

g. If for this Contract the Contractor made a commitment to achieve the DVBE participation goal, the Department will withhold $10,000 from the final payment, or the full payment if less than $10,000, until the Contractor complies with the certification requirements above. A Contractor that fails to comply with the certification requirement must, after written notice, be allowed to cure the defect. Notwithstanding any other law, if, after at least 15 calendar days but not more than 30 calendar days from the date of written notice, the prime Contractor refuses to comply with the certification requirements, DHCS will permanently deduct $10,000 from the final payment, or the full payment if less than $10,000. (Mil. & Vet. Code § 999.7.)

h. A person or entity that knowingly provides false information will be subject to a civil penalty for each violation. (Mil. & Vet. Code § 999.5(d); Govt. Code § 14841.)

i. Contractor agrees to comply with the rules, regulations, ordinances, and statutes that apply to the DVBE program as defined in § 999 of the Mil. & Vet. Code, including, but not limited to, the requirements of § 999.5(d).

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

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

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

a. Ensure that small businesses, minority-owned firms and women's business enterprises are used to the fullest extent practicable.

b. Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms and women's business enterprises.

c. Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

d. Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

e. Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

30. Use of Small Business Subcontractors

(Only applicable to agreements awarded in part due to the granting of small business preference where the Contractor committed to use small business subcontractors for at least 25% of the initial contract cost or amount bid.)

a. All Small Business Preference Request attachments and Small Business Subcontractor/Supplier Acknowledgment attachments, however labeled, completed as a condition of bidding, are incorporated herein, and made a part of this Agreement by this reference.

b. Contractor agrees to use each small business subcontractor/supplier, as

identified in previously submitted Small Business Preference Request attachments, unless the Contractor submits a written request for substitution of a like or alternate subcontractor. All requests for substitution must be approved by DHCS, in writing (including email or fax), prior to using a proposed substitute subcontractor.

c. Requests for substitution must be approved by the funding program and must include, at a minimum:

   1) An explanation of the reason for the substitution.

   2) A written description of the business enterprise that will be substituted, including its small business certification status and contact information.

   3) If substitution of an alternate small business does not occur, include a written justification and description of the steps taken to try to acquire a new small business and how that portion of the Contract will be fulfilled.

   4) A written description of the work to be performed by the substituted subcontractor identified by both task (if applicable) and dollar amount or percentage of the overall Contract that the substituted subcontractor will perform. The substituted business, if approved, must perform a commercially useful function in the Contract pursuant to 2 C.C.R. § 1896.15.

d. DHCS may consent to the substitution if allowed by applicable State laws.

e. Prior to the approval of the prime contractor's request for the substitution, the funding program will give notice in writing to the listed subcontractor of the prime contractor's request to substitute and the reasons for the request to substitute. The notice will be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor that has been so notified will have five (5) working days after the receipt of the notice to submit written objections to the substitution to the funding program. Failure to file these written objections will constitute the listed subcontractor's consent to the substitution. If written objections are filed, DHCS will give notice in writing of at least five (5) working days to the listed subcontractor of a hearing by DHCS on the prime contractor's request for substitution.

f. Failure of the Contractor to subcontract with the small businesses listed in its bid or proposal to DHCS, or failure to follow applicable substitution rules and regulations will be grounds for DGS to impose sanctions pursuant to Gov. Code § 14842.5 and 2 C.C.R. § 1896.92. In the event such sanction are to be imposed, the Contractor be notified in writing and entitled to a hearing pursuant to Gov. Code § 14842. and 2 C.C.R. § 1896.18 and § 1896.20.

g. If requested by DHCS, Contractor agrees to provide documentation/verification, in a form agreed to by DHCS, that small business subcontractor usage under this Agreement complies with the commitments specified during the contractor selection process.

31. Alien Ineligibility Certification

(Applicable to sole proprietors entering into federally funded agreements.)

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

32. Union Organizing

(Applicable only to grant agreements.)

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

a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.

b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.

c. Grantee must, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.

d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee must provide those records to the Attorney General upon request.

33. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

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

a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.

b. As used herein, fringe benefits do not include:

    1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.

    2) Director's and executive committee member's fees.

3) Incentive awards and/or bonus incentive pay.

4) Allowances for off-site pay.

5) Location allowances.

6) Hardship pay.

7) Cost-of-living differentials.

c. Specific allowable fringe benefits include:

1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.

d. To be an allowable fringe benefit, the cost must meet the following criteria:

1) Be necessary and reasonable for the performance of the Agreement.

2) Be determined in accordance with generally accepted accounting principles.

3) Be consistent with policies that apply uniformly to all activities of the Contractor.

e. Contractor agrees that all fringe benefits must be at actual cost.

f. Earned/Accrued Compensation

1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.

2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.

3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

a) **Example No. 1:**

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

b) **Example No. 2:**

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

c) **Example No. 3:**

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

34. Suspension or Stop Work Notification

a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.

b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification will remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.

1) Upon receipt of a suspension or stop work notification, the Contractor must immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.

2) Within 90 days of the issuance of a suspension or stop work notification, DHCS will either:

a) Cancel, extend, or modify the suspension or stop work notification; or

b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.

c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.

d. If the suspension or stop work notification is canceled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification will require an amendment to the Agreement.

e. If a suspension or stop work notification is not canceled and the Agreement is canceled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS will allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.

f. DHCS will not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

35. Public Communications

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

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

36. Legal Services Contract Requirements

(Applicable only to agreements involving the performance of legal services.)

The Contractor must:

a. Adhere to legal cost and billing guidelines designated by DHCS.

b. Adhere to litigation plans designated by DHCS.

c. Adhere to case phasing of activities designated by DHCS.

d. Submit and adhere to legal budgets as designated by DHCS.

e. Maintain legal malpractice insurance in an amount not less than the amount designated by DHCS. Said amount must be indicated in a separate letter to the Contractor.

f. Submit to legal bill audits and law firm audits if requested by DHCS. Such audits may be conducted by State employees or its designees or by any legal cost control providers retained by DHCS for such purpose.

g. Applicable only to legal agreements of $50,000 or more:

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

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

37. Compliance with Statutes and Regulations

a. The Contractor must comply with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to Contractor's performance under the Agreement. This includes any changes to the applicable laws, regulations, and/or published guidelines that arise after the execution of this Agreement.

b. For federally funded agreements, these authorities include, but are not limited to, 2 C.F.R. Part 200, subpart F, Appendix II; 42 C.F.R. Part 431, subpart F; 42 C.F.R. Part 433, subpart D; 42 C.F.R. Part 434; 45 C.F.R. Part 75, subpart D; and 45 C.F.R. Part 95, subpart F. To the extent applicable under federal law, this Agreement will incorporate the contractual provisions in these federal regulations and they will supersede any conflicting provisions in this Agreement.

38. Lobbying Restrictions and Disclosure Certification

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

a. Certification and Disclosure Requirements

   1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds $100,000 at any tier, must file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.

   2) Each recipient must file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that

contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.

3) Each recipient must file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:

   a) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;

   b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or

   c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.

4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding $100,000 at any tier under a contract or agreement, or grant must file a certification, and a disclosure form, if required, to the next tier above.

5) All disclosure forms (but not certifications) must be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person must forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

Attachment 1
CERTIFICATION REGARDING LOBBYING

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned must complete and submit Standard Form LLL, “Disclosure of Lobbying Activities" (Attachment 2) in accordance with its instructions.

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

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

By signing or otherwise accepting the Agreement, the recipient certifies and files this Attachment 1. **CERTIFICATION REGARDING LOBBYING,** as required by Section 1352, Title 31, U.S.C., unless the conditions stated in paragraph 2 above exist. In such case, the awardee/contractor must complete and sign Attachment 2. **CERTIFICATION REGARDING LOBBYING and returning it to the Department of Health Care Services.**

Attachment 2
CERTIFICATION REGARDING LOBBYING

Approved by OMB (0348-0046)
Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
_ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	_ a. bid/offer/application b. initial award c. post-award	_ a. initial filing b. material change For Material Change Only: Year _____ quarter _____ date of last report _____.

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ___, if known: Congressional District, If known:	Congressional District, If known:
6. Federal Department/Agency	7. Federal Program Name/Description:
	CDFA Number, if applicable: _____
8. Federal Action Number, if known:	9. Award Amount, if known:
10.a. Name and Address of Lobbying Registrant *(If individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from 10a.* *(Last name, First name, MI):*

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person that fails to file the required disclosure shall be subject to a not more than $100,000 for each such failure.

Signature:	
Print Name:	
Title:	
Telephone Number:	
Date:	

Federal Use Only	Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)

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

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if itis, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grant.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001”.

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Exhibit E
Additional Provisions

1. Amendment Process

A. This provision is in addition to provision 2 of Exhibit C, General Terms and Conditions (GTC 02/2025).

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

2. Termination for Convenience

A. This provision replaces and supersedes only Provision 10(b) Termination for Convenience in Exhibit D. **Note**: Provision 10(a) Termination for Cause in Exhibit D remains in force as is.

B. This agreement may be terminated, in whole or in part, without cause, and without penalty, by either party by giving thirty (30) calendar days advance written notice to the other party. Such notification must state the effective date of termination or cancellation and include any final performance and/or payment/invoicing instructions/requirements. Upon receipt of a notice of termination or cancellation from DHCS, Contractor must take immediate steps to stop performance and to cancel or reduce subsequent contract costs.

C. In the event of termination, in whole or in part, under this paragraph, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials related to the terminated portion of the Contract including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims.

Exhibit E
Additional Provisions

D. The Contractor will be entitled to compensation upon submission of an invoice and proper proof of claim for the services and products satisfactorily rendered, subject to all payment provisions of the Agreement. Payment is limited to expenses necessarily incurred pursuant to this Agreement up to the date of termination.

3. Insurance Requirements

Contractor must comply with the following insurance requirements:

A. General Provisions Applying to All Policies

1. Coverage Term

   Coverage needs to be in force for the complete term of the contract. If insurance expires during the term of the contract, a new certificate must be received by the State at least thirty (30) days prior to the expiration of this insurance. Any new insurance must still comply to the original terms of the contract.

2. Policy Cancellation or Termination & Notice of Non-Renewal

   Contractor is responsible to notify the State within thirty (30) days of any cancellation, non-renewal or material change that affects required insurance coverage. In the event Contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.

3. Deductible & Other Costs

   Contractor is responsible for any deductible or self-insured retention contained within their insurance program, or any premiums or assessments.

4. Primary Clause

   Any required insurance contained in this contract must be primary, and not excess or contributory, to any other insurance carried by the State.

5. Insurance Carrier Required Rating

   All insurance companies must carry an A rating or better. If the Contractor is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.

Exhibit E
Additional Provisions

6. Endorsements

   Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.

7. Inadequate Insurance

   Inadequate or lack of insurance does not negate the Contractor's obligations under the contract.

8. Subcontractors

   If Contractor has identified subcontractors for the work/services identified in the scope of work, the Contractor must include all subcontractors as insureds under Contractor's insurance or supply evidence of subcontractor's insurance to the State equal to policies, coverages and limits required of Contractor.

9. Certificate of Insurance

   The Contractor shall furnish a Certificate of Insurance for in complete compliance with the terms of the applicable insurance requirements in this provision (i.e., coverage type; dollar limit per occurrence; cancellation requires notification to DHCS at least thirty (30) days in advance; and the State of California, its officers, agents, and employees are included as additional insureds with respect to work performed for the State of California under this Agreement).

B. Commercial General Liability

Contractor and any subcontractors must maintain general liability on an occurrence form with limits not less than $1,000,000 per occurrence for bodily injury and property damage liability combined. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limits must apply separately to this project/location, or the general aggregate limit must be twice the required occurrence limit. If the aggregate applies "per project/location" it must so state on the certificate. The policy must include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance must apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability. The policy must be endorsed to include the State of California, its officers, agents and employees as additional insured with respect to work performed under the

Exhibit E
Additional Provisions

contract. The additional insured endorsement must be provided with the certificate of insurance.

C. Automobile Liability

Contractor must maintain motor vehicle liability with limits not less than $1,000,000 combined single limit per accident. Such insurance must cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. The policy must be endorsed to include the State of California, its officers, agents and employees as additional insured with respect to work performed under the contract. The additional insured endorsement must be provided with the certificate of insurance.

D. Workers Compensation and Employers Liability

Contractor must maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Contract. Employer's liability limits of $1,000,000 are required. The Workers' Compensation policy must be endorsed with a waiver of subrogation in favor of the State.

E. Errors and Omissions/Professional Liability

Contractor shall maintain Errors and Omissions/Profession liability with limits of not less than $1,000,000 each incident and $2,000,000 aggregate covering damages caused by negligent, acts or omissions. The policy retro date must be shown on a certificate of insurance and must be before the Contract date, or before the date contract work begins. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after the completion of work.

Contractor must maintain Pollution Liability covering the Contractor's liability for bodily injury, property damage, and environmental damage resulting from pollution and related cleanup costs incurred, all arising out of the work or services to be performed under this agreement. Coverage must be provided for both work performed on site and during transportation as well as proper disposal of hazardous materials. Proof of Pollution during transportation must be provided on an MCS-90 form. Limits of not less than $1,000,000 per incident, and annual aggregate amount of $2,000,000 must be provided. The policy must name The State of California, its officers, agents, and employees as additional insured, but only with respect to work performed under the

Exhibit E
Additional Provisions

agreement.

F. Cyber Liability

Contractor shall maintain Cyber Liability insurance with limits of not less than $2,000,000 for each occurrence and an annual aggregate of $4,000,000 covering claims involving privacy violations, information theft, damage or destruction of electronic information, intentional and/or unintentional release of State and or private information, alteration of electronic information, extortion and network security. The policy must name The State of California, its officers, agents, and employees as additional insured with respect to work performed under the contract.

Exhibit F
Business Associate Addendum

1. This Agreement has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act (HIPAA) and its implementing privacy and security regulations at 45 Code of Federal Regulations, Parts 160 and 164 (collectively, and as used in this Agreement)

2. The term "Agreement" as used in this document refers to and includes both this Business Associate Addendum and the contract to which this Business Associate Agreement is attached as an exhibit, if any.

3. For purposes of this Agreement, the term "Business Associate" shall have the same meaning as set forth in 45 CFR section 160.103.

4. The Department of Health Care Services (DHCS) intends that Business Associate may create, receive, maintain, transmit or aggregate certain information pursuant to the terms of this Agreement, some of which information may constitute Protected Health Information (PHI) and/or confidential information protected by Federal and/or state laws.

4.1 As used in this Agreement and unless otherwise stated, the term "PHI" refers to and includes both "PHI" as defined at 45 CFR section 160.103 and Personal Information (PI) as defined in the Information Practices Act (IPA) at California Civil Code section 1798.3(a). PHI includes information in any form, including paper, oral, and electronic.

4.2 As used in this Agreement, the term "confidential information" refers to information not otherwise defined as PHI in Section 4.1 of this Agreement, but to which state and/or federal privacy and/or security protections apply.

5. Contractor (however named elsewhere in this Agreement) is the Business Associate of DHCS acting on DHCS's behalf and provides services or arranges, performs or assists in the performance of functions or activities on behalf of DHCS, and may create, receive, maintain, transmit, aggregate, use or disclose PHI (collectively, "use or disclose PHI") in order to fulfill Business Associate's obligations under this Agreement. DHCS and Business Associate are each a party to this Agreement and are collectively referred to as the "parties."

6. The terms used in this Agreement, but not otherwise defined, shall have the same meanings as those terms in HIPAA and/or the IPA. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

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

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

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

8. Compliance with Other Applicable Law

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

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

8.1.2 To treat any violation of such additional and/or more protective standards as a breach or security incident, as appropriate, pursuant to Section 19. of this Agreement.

8.2 Examples of laws that provide additional and/or stricter privacy protections to certain types of PHI and/or confidential information, as defined in Section 4. of this Agreement, include, but are not limited to the Information Practices Act, California Civil Code sections 1798-1798.78, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, Welfare and Institutions Code section 5328, and California Health and Safety Code section 11845.5.

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

9. Additional Responsibilities of Business Associate

9.1 Safeguards and Security.

9.1.1 Business Associate shall use safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI and other confidential data and comply, where applicable, with subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the information other than as provided for by this Agreement. Such safeguards shall be based on applicable Federal Information Processing Standards (FIPS) Publication 199 protection levels.

9.1.2 Business Associate shall, at a minimum, utilize a National Institute of Standards and Technology Special Publication (NIST SP) 800-53 compliant security framework when selecting and implementing its security controls and shall maintain continuous compliance with NIST SP 800-53 as it may be updated from time to time. The current version of NIST SP 800-53, Revision 5, is available online at https://csrc.nist.gov/publications/detail/sp/800-53/rev-5/final; updates will be available online at https://csrc.nist.gov/publications/sp800.

9.1.3 Business Associate shall employ FIPS 140-3 validated encryption of PHI at rest and in motion unless Business Associate determines it is not reasonable and appropriate to do so based upon a risk assessment, and equivalent alternative measures are in place and documented as such. FIPS 140-3 validation can be determined online at https://csrc.nist.gov/projects/cryptographic-module-validation-program/validated-modules/search. In addition, Business Associate shall maintain, at a minimum, the most current industry standards for transmission and storage of PHI and other confidential information.

9.1.4 Business Associate shall apply security patches and upgrades, and keep virus software up-to-date, on all systems on which PHI and other confidential information may be used.

9.1.5 Business Associate shall ensure that all members of its workforce with access to PHI and/or other confidential information sign a confidentiality statement prior to access to such data. The statement must be renewed annually.

9.1.6 Business Associate shall identify the security official who is responsible for the development and implementation of the policies and procedures required by 45 CFR Part 164, Subpart C.

9.1.7 Remote access to PHI from outside the continental United States, inclusive of remote access to PHI by Business Associate's support staff in identified support centers, is prohibited.

9.1.8 Business Associate shall only store PHI in a data center physically located within the continental United States.

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

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

11. **Access to PHI.** Business Associate shall make PHI available in accordance with 45 CFR section 164.524.

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

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

14. **Collaboration.** The parties shall collaborate as appropriate and necessary to ensure compliance with this Agreement, including but not limited to Sections 11 – 13 of this Agreement. The parties acknowledge and agree that neither party intends that this Agreement shall create obligations and/or liabilities that do not otherwise exist as appropriate based on the nature of the work performed and applicable law.

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

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

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

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

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

19.1 Notice to DHCS.

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

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

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

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

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

19.1.2.4 Potential loss of confidential information affecting this Agreement.

19.1.3 Notice submitted to the DHCS Incident Reporting Portal will be sent to the DHCS Program Contract Manager (as applicable), the DHCS Privacy Office, and the DHCS Information Security Office. If providing notice to DHCS via email, use the DHCS contact information at Section 19.6 below (collectively, "DHCS Contacts").

Notice shall be made using the DHCS Incident Reporting Portal via the link on the DHCS Data Privacy Website online at

https://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/default.aspx

Notice via email shall be made using the current DHCS "Privacy Incident Reporting Form" and shall include all information known at the time the incident is reported. The form is available online at

https://www.dhcs.ca.gov/formsandpubs/laws/priv/Documents/Privacy-Incident-Report-PIR.pdf

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

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

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

19.2 Investigation. Business Associate shall immediately investigate such security incident or breach.

19.3 **Complete Report**. Business Associate shall provide a complete report of the investigation to DHCS within ten (10) working days of the discovery of the security incident or breach. This complete report must include any applicable additional information not included in the initial submission. The complete report shall include an assessment of all known factors relevant to a determination of whether a breach occurred under HIPAA and other applicable federal and state laws. The report shall also include a full, detailed corrective action plan, including its implementation date and information on mitigation measures taken to halt and/or contain the improper use or disclosure. If DHCS requests additional information, Business Associate shall make reasonable efforts to provide DHCS with such information. DHCS will review and approve or disapprove Business Associate's determination of whether a breach occurred, whether the security incident or breach is reportable to the appropriate entities, if individual notifications are required, and Business Associate's corrective action plan.

19.3.1 If Business Associate does not submit a complete report within the ten (10) working day timeframe, Business Associate shall request approval from DHCS within the ten (10) working day timeframe of a new submission timeframe for the complete report.

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

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

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

DHCS Program Contract Manager	**DHCS Privacy Office**	**DHCS Information Security Office**
See the Scope of Work exhibit for Program Contract Manager information. If this Business Associate Agreement is not attached as an exhibit to a contract, contact the DHCS signatory to this Agreement.	Privacy Office c/o: Data Privacy Unit Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413 Email: incidents@dhcs.ca.gov Telephone: (916) 445-4646	Information Security Office Department of Health Care Services P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: incidents@dhcs.ca.gov

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

21. Audits, Inspection and Enforcement

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

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

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

22. Termination

22.1 **Termination for Cause**. Upon DHCS' knowledge of a violation of this Agreement by Business Associate, DHCS may in its discretion:

22.1.1 Provide an opportunity for Business Associate to cure the violation and terminate this Agreement if Business Associate does not do so within the time specified by DHCS; or

22.1.2 Terminate this Agreement if Business Associate has violated a material term of this Agreement.

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

23. Miscellaneous Provisions

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

23.2. **Amendment**.

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

23.2.2 Failure by Business Associate to take necessary actions required by amendments to this Agreement under Section 23.2.1 shall constitute a material violation of this Agreement.

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

23.4 **No Third-Party Beneficiaries**. Nothing in this Agreement is intended to or shall confer, upon any third person any rights or remedies whatsoever.

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

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