

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: AGRICULTURAL COMMISSIONER

BOARD AGENDA # *B-2

Urgent

Routine

AGENDA DATE January 15, 2008

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval of Fiscal Year 2006-2007 Light Brown Apple Moth Contract with the California Department of Food and Agriculture

STAFF RECOMMENDATIONS:

Approve and authorize the Chairman of the Board of Supervisors to sign the Fiscal Year 2006-2007 Light Brown Apple Moth contract with the California Department of Food and Agriculture.

FISCAL IMPACT:

The Fiscal Year 2006-2007 Light Brown Apple Moth (LBAM) contract amount is \$9,279. This State contract reimburses the Agricultural Commissioner for LBAM program activities which were performed in Fiscal Year 2006-2007. The Department invoiced the California Department of Food and Agriculture in the amount of \$9,279 and this contract authorizes the State to release the funds for payment to the Department.

BOARD ACTION AS FOLLOWS:

No. 2008-032

On motion of Supervisor Monteith, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini, and Chairman Mayfield

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

Light Brown Apple Moth

(California Department of Food & Agriculture)

Light Brown Apple Moth (LBAM) was first discovered in the San Francisco Bay Area in the late fall of 2006. Since then, it has been detected in 12 counties, from Marin to Los Angeles. A Federal Domestic Quarantine Order (DA-2007-42) was established on May 2, 2007 that required, in addition to other actions, additional LBAM trapping to ensure continued interstate movement of regulated articles. Although initial LBAM trapping efforts involved placing traps alongside existing detection traps, the Federal order involved additional traps and efforts beyond that originally anticipated.

Since the spring of 2007, county Agricultural Commissioners have been performing this additional LBAM trapping activity at their own expense, following developed trapping protocols, with the understanding that reimbursement from CDFA would follow. The State has now issued a contract to address this reimbursement to the counties.

The contract amount of \$9,279 is to cover LBAM program activities performed by Stanislaus County for the months of March through June 2007. The Department issued an invoice to the State for this amount in Fiscal Year 2006-2007. Authorization of this contract will allow for payment for work performed.

Stanislaus County is continuing to perform LBAM trapping activity in the current fiscal year in order to protect our valuable agricultural resource. A State contract to cover program work for Fiscal Year 2007-2008 is anticipated.

POLICY ISSUE:

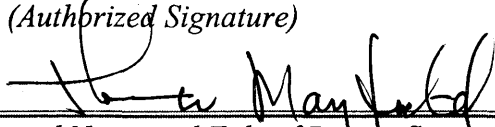
The Board of Supervisors is asked to determine if this contract is consistent with the Board Priority for a Strong Agricultural Economy/Heritage.

STAFFING IMPACT:

There are no staffing impacts associated with this item.


CERTIFICATION

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

<i>Contractor/Bidder Firm Name (Printed)</i> STANISLAUS COUNTY		<i>Federal ID Number</i> 94-6000540 W
<i>By (Authorized Signature)</i> 		
<i>Printed Name and Title of Person Signing</i> Thomas W. Mayfield, Chairman of the Board		
<i>Date Executed</i> 1/15/08	<i>Executed in the County of</i> STANISLAUS	

APPROVED AS TO FORM:
STANISLAUS COUNTY COUNSEL

CONTRACTOR CERTIFICATION CLAUSES

BY 

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (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 over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

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.

Light Brown Apple Moth

AGREEMENT NUMBER 06-0845
REGISTRATION NUMBER 85700108284707

1. This Agreement is entered into between the State Agency and the Contractor named below:
 STATE AGENCY'S NAME
DEPARTMENT OF FOOD AND AGRICULTURE
 CONTRACTOR'S NAME
COUNTY OF STANISLAUS
2. The term of this Agreement is: March 1, 2007 Through June 30, 2007 .
3. The maximum amount of this Agreement is: \$9,279.86
 Nine Thousand Two Hundred Seventy-nine Dollars and Eighty-six Cents
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A – Scope of Work Attachment 1 1 Page(s)
 2 Page(s)

Exhibit B – Budget Detail and Payment Provision Attachment 1 1 Page(s)
 1 Page(s)

Exhibit C – General Terms and Conditions - GTC 307 3 Pages

Check mark one item below as Exhibit D: 1 Page(s)

- Exhibit D-Special Terms and Conditions (Attached hereto as part of this Agreement)
 Exhibit D*-Special Terms and Conditions

APPROVED AS TO FORM:
 STANISLAUS COUNTY COUNSEL
 BY

5. Name of Program: Pest Detection/Emergency Projects

Deirdre M. Strath 1/9/08

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

CONTRACTOR		California Department of General Services Use Only BOARD OF SUPERVISORS 2008 FEB 15 A 10:44 <input checked="" type="checkbox"/> Exempt per: DGS Ltr 28.5
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)		
COUNTY OF STANISLAUS		
BY (Authorized Signature) <i>Thomas W. Mayfield</i>	DATE SIGNED 1-15-08	
PRINTED NAME AND TITLE OF PERSON SIGNING Thomas W. Mayfield, Chairman of the Board		
ADDRESS 3800 Cornucopia Way, Suite B, Modesto, CA 95358		
STATE OF CALIFORNIA		
AGENCY NAME DEPARTMENT OF FOOD AND AGRICULTURE		
BY (Authorized Signature) <i>Janice L. Price</i>	DATE SIGNED 1/30/08	
PRINTED NAME AND TITLE OF PERSON SIGNING JANICE L. PRICE, ACQUISITIONS MANAGER		
ADDRESS 1220 N STREET, ROOM 115, SACRAMENTO, CA 95814		

**EXHIBIT A
(County Agreement)**

SCOPE OF WORK

1. Contractor agrees to provide the services described herein:

The Contractor shall provide all materials, supplies, and labor necessary for Light Brown Apple Moth (LBAM) trapping and survey activities in designated areas of Stanislaus county.

2. The contract managers for this Agreement are:

FOR CDFA:	FOR CONTRACTOR:
Name: Debby Tanouye, Branch Chief	Name: Dennis Gudgel
Section/Unit: Pest Detection/Emergency Projects	Section/Unit: Agricultural Commissioner
Address: 1220 N Street, Room A-330	Address: 3800 Cornucopia Way, Suite B
City/Zip: Sacramento, CA 95814	City/Zip: Modesto, CA 95358
Phone: 916-654-1211	Phone: 209-525-4730

3. See Attachment 1 to this Scope of Work for a detailed description of work to be performed and duties of all parties.

California Department of Food and Agriculture
Plant Health and Pest Prevention Services
Pest Detection/Emergency Projects

Contract for County Agricultural Commissioners to Conduct
Light Brown Apple Moth (LBAM) Trapping

Scope of Work

Background

Light Brown Apple Moth was first discovered in the San Francisco Bay Area in the late fall of 2006. Since then, it has been detected in 12 counties, from Marin to Los Angeles. A Federal Domestic Quarantine Order (DA-2007-42) was established on May 2, 2007 that required, in addition to other actions, additional LBAM trapping to ensure continued interstate movement of regulated articles. Although initial LBAM trapping efforts involved placing traps alongside existing detection traps, the federal order involved additional traps and efforts beyond that originally anticipated.

Since the spring of 2007, County Agricultural Commissioners have been performing this additional LBAM at their own expense, following developed trapping protocols, with the understanding that reimbursement from CDFA would follow.

Description of Work

1. Trapping activities will be conducted by County personnel following guidelines and directions established by CDFA.
2. Nursery trap inspections are to coincide with regulatory visits when possible. Do not inspect a nursery one week and return the following week to inspect traps.
3. Trapping performed in conjunction with existing detection trapping routes and/or sites will not be reimbursed. These traps should be serviced and maintained by existing general detection trappers.
4. Delimitation trapping may be required upon detection of "new location" finds, but only with the approval of LBAM project management.
5. Other than those traps associated with general detection trapping, trapping activities will be documented in separate LBAM trapping books; organized and formatted in the same manner as are the general detection trapping books.
6. Daily Trapping Summaries (form 60-210) must be completed daily by each reimbursable trapper and, along with data in the above trapping books, will serve as official documentation of work performed.

County Responsibilities

1. Hire and/or train personnel.
2. Ensure that trapping procedures are followed.
3. Ensure that all documentation of work is complete and accurate.
4. Submit monthly invoices.
5. Provide and maintain trapping vehicles.
6. Submit samples to the Plant Pest Diagnostics Laboratory in Sacramento via approved method(s).

State Responsibilities

1. Provide training as needed.
2. Provide trapping materials; including traps, lures and handouts.
3. Ensure timely payment of invoices.
4. Provide quality assurance of program.

Basis for Payment

1. Payment will be made monthly, in arrears, upon receipt and approval of invoice.

EXHIBIT B
(County Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears. Invoices shall be submitted to the designated CDFA Contract Manager for this Agreement.

2. Budget Contingency Clause

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

3. Funding Sources for County Contracts (If no Federal Funds, this Section is not applicable)

An annual report of expenditures, where county payments are supported by Federal funds, will be issued by CDFA Administrative Services, Financial Services Branch. This report will be issued by September 30th for invoices submitted prior to July 31st for services rendered in the prior State Fiscal Year.

Federal and State Regulations - The County will comply with all Federal and State regulations and requirements. The County must ensure they have an adequate accounting system in place and appropriate internal controls to ensure expenditures are tracked and maintained.

All sub-recipients of Federal awards shall comply with the Code of Federal Regulations (CFR) Title 2, Part 225 - Cost Principles for State and Local Governments and Title 7, Part 3016 - Uniform Administrative Requirements for Grants and Cooperative Agreements to state and local governments.

Federal 2 CFR 225 (OMB Circular A-87) can be found at the following website:
<http://training.fws.gov/fedaid/toolkit/2cfr225.pdf>

Federal 7 CFR 3016 can be found at the following website:
http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3016_01.html

The State's accounting standards and procedures for counties provided by the State Controller's Office are located at the following website: <http://www.sco.ca.gov/ard/manual/cntyman.pdf>



STANISLAUS COUNTY
Department of Agriculture and
Weights and Measures

Agreement No. DL 0845
 Exhibit B
 Attachment 1
 Page 1 of 1

3800 Cornucopia Way Suite B
 Modesto, CA 95358
 (209)525-4730
 Fax (209)525-4790

INITIAL
HERE

MARCH

Amended LBAM Invoice for April 1, 2007 - June 30, 2007

July 31, 2007

SURVEY/INSPECTION ACTIVITIES

PERSONNEL SERVICES

PERMANENT SALARIES	Hourly Rate	Number of Hours	Total
Deputy Agricultural Commissioner	31.00	6.00	186.00
Agricultural/Weights & Measures Inspector	27.04	12.75	344.76
Overtime	40.56	0.00	-
Agricultural Assistant II Lead	16.59	1.00	16.59
Overtime	24.89	0.00	-
* Account Clerk		0.00	-
			Total Permanent 547.35
 TEMPORARY SALARIES			
Agricultural Assistant II	14.33	7.00	100.31
Overtime	21.50	0.00	-
Agricultural Assistants I	13.05	431.57	5,631.99
Overtime	19.58	0.00	-
			Total Temporary 5,732.30
 Staff Benefits			
	Rate		
Permanent @ (Excluding Overtime)	0.460199		251.89
Temporary @ (Excluding Overtime)	0.067455		386.67
			Total Benefits 638.56
			Total Personnel Services 6,918.21

OPERATING EXPENSES

General Expense/Supplies

General office & field supplies

Vehicle Expense

	Miles	Rate	
County vehicles	460	0.34	156.40
State vehicles	2,210	0.17	375.70

Communication

100.00

Indirect

(Percent of Personnel Services)

Rate	
0.25	1,729.55

Total Operating Expenses 2,361.65

Total Survey/Inspection Activities \$ 9,279.86


 Dennis Gudge, Agricultural Commissioner/Sealer of Weights and Measures

COMMENTS: 55.75 hours are from LBAM traps piggybacked in nurseries with GWSS traps.
 22.82 hours are from LBAM traps Piggybacked on Medfly sites after Pest Detection contract maximum reached.

EXHIBIT C
(County Agreement)

GENERAL TERMS AND CONDITIONS GTC 307

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. 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, 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. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. **TIMELINESS:** Time is of the essence in this Agreement.

13. **COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. **GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. **ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

**EXHIBIT D
(County Agreement)**

SPECIAL TERMS AND CONDITIONS

1. Excise Tax

The State of California is exempt from federal excise taxes and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2. Settlement of Disputes

In the event of a dispute, Contractor shall file a "Notice of Dispute" with the CDFA within ten (10) days of discovery of the problem. Such Notice of Dispute shall contain the Agreement number. Within ten (10) days of receipt of such Notice of Dispute, the Agency Secretary, or Designee, shall meet with the Contractor and the CDFA project manager for the purpose of resolving the dispute. The decision of the Agency Secretary or Designee shall be final. In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of the bid proposal.

3. Agency Liability

The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

4. Potential Subcontractors

If Contractor subcontracts out a portion of the work required by this Agreement, nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

5. Right To Terminate

The State reserves the right to terminate this Agreement without cause subject to 30 days written notice to the Contractor. However, this Agreement can be immediately terminated by the State for cause.

Contractor may terminate this Agreement for cause and be relieved of any further obligations subject to a 60-day written notice to the State, only if contractor can no longer perform its responsibilities or if the State fails to perform its responsibilities as provided herein. Upon such termination, the State shall be relieved of any further payments and this Agreement shall be cancelled.