

*Annex*

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

DEPT: Community Services Agency

BOARD AGENDA # \*B-3

Urgent

Routine

AGENDA DATE October 27, 2015

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of a 43 Month Temporary Staff Assignment of a Community Services Agency Manager to the California State Department of Health Care Services

STAFF RECOMMENDATIONS:

1. Authorize one Community Services Agency (CSA) Manager to be assigned and loaned to the California State Department of Health Care Services (DHCS) to perform the duties as the Division Chief of Medi-Cal Eligibility beginning December 1, 2015 through June 30, 2019.
2. Authorize the CSA Director, or her designee, to the sign the Inter-Jurisdictional Loan Contract Agreement 15-92194, and any amendments thereto, with DHCS which outlines the loaned Manager's responsibilities and job duties as the Division Chief of Medi-Cal Eligibility.
3. Adopt a Resolution that acknowledges that the Stanislaus County Board of Supervisors has given authorization of an Inter-Jurisdictional Loan Contract with DHCS to loan one Community Services Agency Manager to perform duties as the Division Chief of Medi-Cal Eligibility.

FISCAL IMPACT:

The term of the Inter-Jurisdictional Loan Contract with DHCS is December 1, 2015 through June 30, 2019. On September 15, 2015 in the approved Final Budget, CSA received approval to add a new Manager IV position to act as the DHCS Division Chief of Medi-Cal Eligibility. The Inter-Jurisdictional Loan Contract funding will be 100% funded by the DHCS and will reimburse Stanislaus County for the actual salary and fringe benefits (MediCare/FICA, health, dental, vision, life, benefit administration fee, workers compensation, unemployment insurance and retirement)

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2015-495

On motion of Supervisor Chiesa, Seconded by Supervisor Monteith  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, DeMartini, and Chairman Withrow

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

4) \_\_\_\_\_ Other:

MOTION:

ATTEST:

Christine Ferraro  
CHRISTINE FERRARO TALLMAN, Clerk

File No.

**FISCAL IMPACT: (Continued)**

costs for this position plus \$1,000 towards travel expenses and an indirect overhead rate of up to 20% of total personnel costs as identified in Exhibit B. The 20% overhead rate is the maximum percentage of total salary and benefits allowed by DHCS to pay for County and CSA overhead expenses incurred while managing the employee's payroll and processing the monthly billings to DHCS. DHCS will coordinate the travel expenses (mileage reimbursement, air fare, hotel accommodations) for business purposes only.

The Agency has sufficient appropriations and revenue to cover the cost of this position in the Fiscal Year 2015-2016 Adopted Final Budget. The amount of the contract will not exceed \$752,740 for the forty-three (43) month term of the contract.

Appropriations and estimated revenue for the Fiscal Years after 2015-2016 will be included in the Agency's budget submission for those Fiscal Years. Funding for the Inter-Jurisdictional Loan Contract is 100% DHCS funded.

There is no cost to the General Fund associated with this contract.

<b>Fiscal Year</b>	<b>Contract Amount</b>	<b>Salary &amp; Fringe Benefits</b>	<b>Travel</b>	<b>Indirect Cost (20%)</b>
12/01/2015 to 06/30/2016	\$ 110,438	\$91,198	\$1,000	\$18,240
07/01/2016 to 06/30/2017	\$ 201,327	\$166,939	\$1,000	\$33,388
07/01/2017 to 06/30/2018	\$ 216,614	\$179,678	\$1,000	\$35,936
07/01/2018 to 06/30/2019	\$ 224,361	\$ 186,134	\$1,000	\$37,227
<b>Total</b>	<b>\$ 752,740</b>	<b>\$ 623,949</b>	<b>\$4,000</b>	<b>\$124,791</b>

**DISCUSSION:**

Recent recruitment efforts by State Department of Health Care Services (DHCS) of their existing workforce and employment lists had not yielded sufficiently qualified personnel with the personal attributes and skills needed to perform the duties needed of the Division Chief of Medi-Cal Eligibility. Many applicants and individuals on the employment list had general knowledge and experience related to health programs and services, but they lacked the needed levels of knowledge and expertise in leadership and management skills necessary to lead and guide the organization in the development of health care eligibility, policies, and procedures for current and future needs.

Approval of a 43 Month Temporary Staff Assignment of a Community Services Agency Manager to the California State Department of Health Care Services

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DHCS was also in need of a candidate with numerous years of Medi-Cal experience and extensive knowledge of how Medi-Cal eligibility operations work in a County organization. Unsuccessful in their recruitment efforts, DHCS contacted the County Welfare Directors Association of California (CWDA) asking for names of potential candidates. CWDA recommended to DHCS that they contact the Stanislaus County Community Services Agency (CSA) Director to request a temporary loan of one of her managers to perform the duties of the Division Chief of Medi-Cal Eligibility. DHCS then contacted the Stanislaus County CSA Director to make this request. Prior to agreeing to the DHCS request, the CSA Director spoke with the manager to see if she was willing to take the assignment and consulted with the County's Chief Executive Office (CEO) Human Resource (HR) staff regarding if this was allowable. Once the CSA Director learned that the manager was willing to take the assignment and the County's CEO HR staff approved of the temporary staff assignment, the CSA Director agreed to have the Inter-Jurisdictional Loan Contract be drafted by DHCS.

The temporary staff assignment of the CSA Manager to be the DHCS Division Chief of Medi-Cal Eligibility will provide CSA and Stanislaus County a valuable advocate to provide the County perspective in meeting the needs of Medi-Cal recipients.

The Inter-Jurisdictional Loan Contract developed on behalf of the selected CSA manager is considered temporary and the manager will remain a Stanislaus County employee with regard to rights and benefits.

The CSA Manager's primary work location will be at the DHCS, Medi-Cal Eligibility Division, 1501 Capitol Avenue Suite 71.4063, Sacramento, CA. The State cannot reimburse a loaned employee's travel expense to commute to or from work. If the CSA Manager moves to Sacramento, DHCS can reimburse for temporary lodging for up to 14 days subject to a maximum rate of \$84 plus tax per day with a receipt. This does not include meals. DHCS will coordinate travel expenses (mileage reimbursement, air fare, hotel accommodations) for business purposes only, and will be reimbursed through the agreement. As stated below and in Exhibit B 5:

"Reimbursement for travel and per diem expenses from DHCS under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Personnel Administration (DPA), for non-represented state employees. If the DPA rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to DPA rates may be approved by DHCS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior written authorization from DHCS. Allowable rates appear in Travel Reimbursement Information (Exhibit E)."

Approval of a 43 Month Temporary Staff Assignment of a Community Services Agency Manager to the California State Department of Health Care Services

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All actual salary, fringe benefits (MediCare/FICA, health, dental, vision, life, benefit administration fee, workers compensation, unemployment insurance and retirement), plus \$1,000 towards travel costs and an indirect overhead rate of up to 20% of total personnel costs will be 100% reimbursed to Stanislaus County by DHCS. The 20% overhead rate is the maximum percentage of total salary and benefits allowed by DHCS to pay for County and CSA overhead expenses incurred while managing the employee's payroll and processing the monthly billings to DHCS. If approved, the temporary staff assignment is scheduled to begin December 1, 2015 and end June 30, 2019. The Agency will return to the Board of Supervisors for approval of any extension that may be requested.

**POLICY ISSUE:**

Approval of the recommended actions supports the Board of Supervisors' priorities of Effective Partnerships and Efficient Delivery of Public Services by allowing CSA to loan DHCS a manager who has the needed levels of knowledge, expertise and management experience in Medi-Cal eligibility processes to lead and guide them in the development of their current and future health care policies and procedures.

**STAFFING IMPACT:**

On September 15, 2015 the Board approved the addition of a Manager IV position to act as the DHCS Division Chief of Medi-Cal Eligibility during the 43 month term of the Inter-Jurisdictional Loan Contract. In anticipation of the CSA Manager's return towards the end of the contract, CSA will work with the Chief Executive Office and the CSA Manager to identify an existing Manager III position as a landing space through attrition such as a planned retirement. Existing Community Services Agency staff is available to support this DHCS Inter-Jurisdictional Loan Contract.

**CONTACT PERSON:**

Kathryn Harwell, Director (209) 558-2500

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
STATE OF CALIFORNIA

Date: October 27, 2015

2015-495

On motion of Supervisor Chiesa Seconded by Supervisor Monteith  
and approved by the following vote,  
Ayes: Supervisors: O'Brien, Chiesa, Monteith, DeMartini and Chairman Withrow  
Noes: Supervisors: None  
Excused or Absent: Supervisors: None  
Abstaining: Supervisor: None

Item # \*B-3

THE FOLLOWING RESOLUTION WAS ADOPTED:

**APPROVAL OF AN INTER-JURISDICTIONAL LOAN CONTRACT WITH THE CALIFORNIA  
DEPARTMENT OF HEALTH CARE SERVICES TO LOAN ONE COMMUNITY SERVICES AGENCY  
MANAGER TO PERFORM DUTIES AS A DIVISION CHIEF OF MEDI-CAL ELIGIBILITY**

WHEREAS, the County of Stanislaus has authorized one Community Services Agency Manager to be assigned and loaned to the California State Department of Health Care Services to perform the duties as the Division Chief of Medi-Cal Eligibility beginning December 1, 2015 through June 30, 2019; and,

WHEREAS, the County of Stanislaus has read and approved Agreement Number 15-92194 with the State of California, Department of Health Care Services and acknowledges the benefits and responsibilities to be shared by both parties to said agreement,

NOW, THEREFORE, BE IT RESOLVED that the Stanislaus County Board of Supervisors does hereby authorize the Director of the Stanislaus County Community Services Agency, or her designee, to sign and execute any and all documents required by the State of California, Department of Health Care Services to effectuate the execution of contracts and/or amendments except to increase the financial liability of the County of Stanislaus.

BE IT FURTHER RESOLVED, that this authorization shall remain in effect until the expiration of the contract and shall automatically expire at that time, unless earlier revoked or extended by the Stanislaus County Board of Supervisors.

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk  
Stanislaus County Board of Supervisors,  
State of California



File No.

STATE OF CALIFORNIA  
**STANDARD AGREEMENT**  
 STD 213\_DHCS (Rev. 08/14)

REGISTRATION NUMBER <i>EP 1457320</i>	AGREEMENT NUMBER 15-92194
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- This Agreement is entered into between the State Agency and the Contractor named below:  
 STATE AGENCY'S NAME (Also known as DHCS, CDHS, DHS or the State)  
**Department of Health Care Services**  
 CONTRACTOR'S NAME (Also referred to as Contractor)  
**County of Stanislaus, Community Services Agency**
- The term of this Agreement is: **December 1, 2015**  
 through **June 30, 2019**
- The maximum amount of this Agreement is: **\$ 752,740.00**  
**Seven Hundred Fifty-Two Thousand, Seven Hundred Forty Dollars**
- The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of this Agreement.

Exhibit A – Scope of Work	6 pages
Exhibit B – Budget Detail and Payment Provisions	4 pages
Exhibit B Attachment I – Year 1	1 page
Exhibit B Attachment II – Year 2	1 page
Exhibit B Attachment III – Year 3	1 page
Exhibit B Attachment IV – Year 4	1 page
Exhibit C * – General Terms and Conditions	<u>GTC 610</u>
Exhibit D – Additional Provisions	2 pages
Exhibit E – Travel Reimbursement Information	2 pages
Exhibit F – HIPAA Business Associate Addendum	15 pages
Exhibit G – Information Confidentiality and Security Requirements	7 pages

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

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

CONTRACTOR	
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) County of Stanislaus, Community Services Agency	
BY (Authorized Signature) <i>Kathryn M. Harwell</i>	DATE SIGNED (Do not type) <i>11/4/15</i>
PRINTED NAME AND TITLE OF PERSON SIGNING Kathryn Harwell, Director	
ADDRESS 251 E. Hackett Road Modesto, CA 95353	
STATE OF CALIFORNIA	
AGENCY NAME Department of Health Care Services	
BY (Authorized Signature) <i>Don Rodriguez</i>	DATE SIGNED (Do not type) <i>11-10-15</i>
PRINTED NAME AND TITLE OF PERSON SIGNING Don Rodriguez, Chief, Contract Management Unit	
ADDRESS 1501 Capitol Avenue, Suite 71.5195, MS 1403, P.O. Box 997413, Sacramento, CA 95899-7413	

*California Department of  
General Services Use Only*

**APPROVED**

**NOV 18 2015**

OFFICE OF LEGAL SERVICES  
DEPT. OF GENERAL SERVICES

*[Signature]*

Exempt per: *[Signature]*

APPROVED AS TO FORM:  
 STANISLAUS COUNTY COUNSEL  
 BY *[Signature]*  
 DATE: 11/3/15

**Exhibit A**  
Scope of Work

**1. Service Overview**

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

The Contractor will provide DHCS with a loaned employee who possesses a unique combination of personal attributes, knowledge, skills and expertise, that can satisfactorily perform the duties of this assignment as the Division Chief of Medi-Cal Eligibility Division. The loaned employee will be responsible for planning, organizing, and directing policy formulation for eligibility requirements of the Medi-Cal program. The specifics of this assignment are outlined in this exhibit under 5. Services to be Performed.

**2. Service Location**

The services shall be performed at various statewide facilities accessible to the Contractor.

**3. Service Hours**

The services shall be provided during normal Contractor working days and hours, excluding national and State holidays.

**4. Project Representatives**

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

<b>Department of Health Care Services</b> Contract Manager: Rene Mollow, Deputy Director Telephone: (916) 552-9641 Fax: (916) 319-8219 Email: rene.mollow@dhcs.ca.gov	<b>County of Stanislaus, Community Services Agency</b> Kathryn Harwell, Director Telephone: (209) 558-2500 Fax: (209) 558-2558 Email: harwellk@stancounty.com
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B. Direct all inquiries to:

<b>Department of Health Care Services</b> DHCS, Health Care Benefits and Eligibility Attention: Rene Mollow, Deputy Director Mail Station Code 4000 1501 Capitol Avenue, Suite 71.6086 P.O. Box Number 997413 Sacramento, CA 95899-7413  Telephone: (916) 552-9641 Fax: (916) 319-8219 Email: rene.mollow@dhcs.ca.gov	<b>County of Stanislaus, Community Services Agency</b> Attention: Kathryn Harwell, Director 251 E. Hackett Road P.O. Box Number 42 Modesto, CA, 95353-0042  Telephone: (209) 558-2500 Fax: (209) 558-2558 Email: harwellk@stancounty.com
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C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this Agreement.

**Exhibit A**  
Scope of Work

**5. Services to be Performed**

- A. The services described herein shall be performed under the general direction of Rene Mollow, Deputy Director, Health Care Benefits and Eligibility.
- B. The employee loaned to DHCS shall perform the following services according to the terms, conditions and understandings hereafter specified. Duties and responsibilities shall include:
- 1) Under the administrative direction of the Deputy Director for Health Care Benefits and Eligibility, the loaned employee shall be assigned the position of Chief of the Medi-Cal Eligibility Division (MCED) to provide leadership, direction and coordination between the policy segment of the Division, counties and federal government regarding Medicaid (Medi-Cal in California) and Children's Health Insurance Program (CHIP) eligibility.
  - 2) The Chief is responsible for overseeing negotiations of issues to maintain overall consistency with current Medi-Cal and CHIP policies, and state and federal statutes and regulations. The Chief is responsible for oversight and management of issues pertaining to the eligibility system infrastructure used to support Medi-Cal and CHIP eligibility determinations and policy direction for needed system changes. Furthermore, the Chief is responsible for the development and implementation of new eligibility categories and programs based upon changes to federal and state law including provisions related to the Patient Protection and Affordable Care Act of 2010.
  - 3) The Chief advises and consults with the DHCS Director, DHCS Chief Deputy Directors, California Health and Human Services Agency staff and Governor's Office staff concerning issues of significant policy impact. The Chief represents DHCS in contact with public and private organizations, and local, state, and federal government officials in Medi-Cal eligibility matters. The Chief's responsibility for policy decision-making and implementation will have a significant impact on the DHCS's mission to preserve and improve the health of Californians. The Chief consults with the Department of Finance (DOF), the Legislature and other state control agencies, the State's data center, and other departments, including the Departments of Social Services, and Developmental Services and the Health Benefit Exchange Board.
  - 4) The Chief works with the management team within the division to identify and implement strategies that will ensure that state and federal Medicaid and CHIP eligibility policies and procedures are implemented timely and effectively. The Chief coordinates and directs program review activities in relation to program policy development and implementation and oversight of county administrative functions related to Medi-Cal eligibility determinations.
  - 5) The Chief oversees and coordinates new policy and procedures or the revision of existing policies and procedures affecting eligibility. In addition, the Chief develops and maintains the Division's budget and provides information to the DHCS Fiscal Forecasting and Data Management Branch for the development of the Medi-Cal Estimate, which provides the basis for funding of Medi-Cal and CHIP programs, including county administrative activities related to Medi-Cal eligibility determinations.
  - 6) Under general direction from the Deputy Director of Health Care Benefits and Eligibility, the Chief of the Medi-Cal Eligibility Division, is responsible for planning, organizing, and directing policy formulation for eligibility requirements of the Medi-Cal program.



**Exhibit A  
Scope of Work**

- 7) The loaned employee will hinder herself from making decisions on any material issues that relate specifically to the County of Stanislaus or which impact the County of Stanislaus in a manner significantly different from other similar situated California county social services agencies. As to such issues, the loaned employee agrees to defer any needed decisions on which she might potentially have a conflict to the Director of the Department of Health Care Services or her designee.
- 8) As appropriate, meets with the DHCS Director and Chief Deputy Director's, the CHSA Secretary and staff, members of the Legislature and relevant federal and state representatives, advocates and stakeholder organizations, including the California Welfare Directors Association.
- 9) Participates in DHCS's annual budgeting process, including reviewing budget change concepts and budget change proposals, representing the division in meetings with the DHCS Director's Office and Administration Division's staff, DOF, and the Legislative Analyst Office, and monitors the budget process to determine its impact on the Division's programs. Participates in the annual legislative process, developing legislative concepts and bill analyses.
- 10) The loaned employee will hinder herself from making decisions on any material issues that relate to employee activity. As to such issues, the loaned employee agrees to defer any needed decisions which she might potentially have a conflict to the Deputy Director of Health Care Benefits and Eligibility.

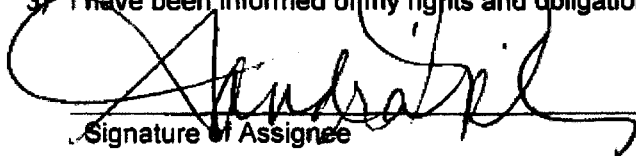
**6. Participating Employee Information / Affirmation**

The employee named herein is voluntarily participating in this assignment.

Name Sandra Williams  
Address 16513 Palmento Court  
Dehli, CA 95315

By affixing my signature here, I certify that:

- 1) I understand the terms of this Agreement and agree to comply with all applicable rules, regulations, and policies governing this assignment.
- 2) I am voluntarily participating in this assignment.
- 3) I have been informed of my rights and obligations pursuant to this Agreement.

  
Signature of Assignee

10/9/15  
Date

**7. Position to which assignment will be made**

Agency Name	Department of Health Care Services
Office Name	Medi-Cal Eligibility Division
Office Address	P.O. Box 997417, MS 4607, 1501 Capitol Avenue, Suite 71.4063, Sacramento, CA, 95814

**Exhibit A**  
Scope of Work

Office Telephone	(916) 327-6718
Position Title	Division Chief
Immediate Supervisor	Rene Mollow, Deputy Director of Health Care Benefits and Eligibility

**8. Assignment Information**

**A. Type of Assignment**

	On loan from a Federal agency.		On loan to a Federal agency.
X	On loan from a local government agency.		On loan to a local government agency.
	On loan from a California public college or university.		On loan to a California public college or university.

**B. Level of Assignment Responsibility**

	Duties are at approximately the same level of responsibility and difficulty as the employee's current position.
X	Duties are at a higher level of responsibility and difficulty than the employee's current position.

**C. Purpose, Reason or Benefits of this Assignment**

X	Supports agency mission, goals, and/or objectives.		Strengthens intergovernmental relations.
X	Meets a temporary need for personnel expertise and skills that are unavailable.		Facilitates training and/or development for the loaned employee.
X	Meets a compelling management or program need.		Facilitates the return or placement of an injured employee
	Mutually benefits the participating agencies.		Has a broad and significant impact on department operations and efficiency.

The sponsors of this assignment initiated this Agreement for the following reasons:

- 1) Recent recruitment efforts among DHCS's existing workforce and employment lists did not yield sufficiently qualified personnel with the personal attributes and skills needed to perform the duties of this assignment.
- 2) Many applicants and individuals on the employment list have general knowledge and experience related to health programs and services, most lack the needed levels of knowledge and expertise in leadership and management skills necessary to lead and guide the organization in the development of health care eligibility, policies, and procedures for current and future needs.

**Exhibit A**  
Scope of Work

**D. Employee Benefits**

- 1) The assigned employee shall continue to accrue and receive, without interruption, those benefits he/she is currently receiving or becomes eligible to receive during the term of this Agreement, including:
  - a. Merit or in-grade pay increases,
  - b. Retirement service credit,
  - c. Leave benefits including but not limited to vacation, annual leave, sick leave, holiday pay, personal holidays (if applicable), bereavement leave, jury duty leave, military leave, etc.
  - d. Employer contributions towards benefits,
  - e. Health and welfare benefits, as applicable (including, but not limited to health, dental, and vision insurance, life insurance, 401 K plans, deferred compensation, long term care insurance, disability insurance, etc.).
- 2) Said benefits shall continue to be coordinated by and through the assigned employee's employer.
- 3) If an increase in the benefits described herein results in an increase to any annual budget or the Agreement total, the Contractor shall notify DHCS in writing of incident that caused the benefit costs to increase and request an amendment to this Agreement.

The Contractor shall include in the written notice an identification of the specific benefit that is increasing; briefly explain the reason for the benefit increase, identify the amount of monetary adjustment needed, and the effective date.

- 4) The Contractor agrees that the loaned employees' assignment to the State shall not affect her title, status, or any rights as a County employee. The loaned employee will be entitled to earn credits for and sick leave, vacation, retirement, workers' compensation, and other benefits provided to County employees, except that the loaned employee will only receive those paid holidays provided by the State.

**E. Time/Attendance Reporting and Leave Usage**

- 1) DHCS agrees to prepare and submit any time reporting and/or attendance records as may be needed by the Contractor to record employee absence and leave usage. The Contractor shall supply DHCS' designated Program Contract Manager with the appropriate forms and/or formats needed to meet time and attendance reporting requirements, as well as appropriate completion instructions.
- 2) Unless agreed to in writing by the Program Contract Manager, DHCS shall not reimburse the Contractor for any sick leave, vacation or annual leave used that the assigned employee accrued prior to the beginning of this Agreement.
- 3) Should the assigned employee fail to exhaust all of the leave accrued during the assignment, DHCS shall not reimburse the Contractor any lump sums of unused vacation/annual leave or sick leave that extend beyond the end date or termination date of this Agreement.

**Exhibit A**  
Scope of Work

**F. Employee Rights**

- 1) The loaned employee has the right to request the discontinuance of this assignment at any time and to initiate the cancellation or termination of this Agreement through the Contractor.
- 2) The Contractor guarantees the continuance of all benefits for the assigned employee as stipulated in the provision entitled, "Employee Benefits".
- 3) The Contractor guarantees the assigned employee a right of return to his/her former position (as defined in the Government Code) at the conclusion or termination of this Agreement.
  - a. The assigned employee shall request, in writing, reinstatement to the Contractor within 10 calendar days of the date this Agreement is cancelled or terminated or within 10 calendar days of the conclusion or end of this Agreement, whichever comes first.
  - b. The assigned employee shall immediately be reinstated by the Contractor upon receipt of the employee's written request for reinstatement and the employee shall not incur a break in the continuance of his/her service as a result of participating in this Interjurisdictional Exchange agreement.

**G. Employee Conduct**

- 1) The Contractor agrees to keep the assigned employee apprised of the Contractor's laws, rules, regulations, and/or policies regarding employee conduct and benefits that apply to the assigned employee while this Agreement is in effect.
- 2) When the assigned employee performs work on DHCS premises, the assigned employee shall follow and adhere all DHCS policies and procedures including, but not limited to, those governing safety, nondiscrimination, appropriate vehicle use, travel reimbursement, confidentiality, protection, and security of information, incompatible activities, acceptable employee conduct, and conflict of interest filing instructions (if applicable). Assigned employees may not access DHCS confidential, personal, or sensitive information until they have been trained on the DHCS policies and procedures for information privacy and security and sign a Confidentiality Statement. This training may be accomplished through the on-line Privacy/Security Training on the DHCS intranet.

**Exhibit B**  
Budget Detail and Payment Provisions

**1. Invoicing and Payment**

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, DHCS agrees to compensate the Contractor for actual expenditures incurred in accordance with the budget(s) attached hereto.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Dana Ohara  
Department of Health Care Services  
Director's Office  
MS 0000  
P.O. Box 997413, 1501 Capitol Avenue, Suite 6001  
Sacramento, CA 95899-7413

DHCS, at its discretion, may designate an alternate invoice submission address. A change in the invoice address shall be accomplished via a written notice to the Contractor by DHCS and shall not require an amendment to this Agreement.

- C. Invoices shall:
  - 1) Be prepared on Contractor letterhead. If invoices are not on produced letterhead invoices must be signed by an authorized official, employee or agent certifying that the expenditures claimed represent actual expenses for the service performed under this Agreement.
  - 2) Bear the Contractor's name as shown on the Agreement.
  - 3) Identify the billing and/or performance period covered by the invoice.
  - 4) Itemize costs for the billing period in the same or greater level of detail as indicated in this Agreement. Subject to the terms of this Agreement, reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this Agreement and approved by DHCS.

**2. Budget Contingency Clause**

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

**3. Prompt Payment Clause**

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

**Exhibit B**  
Budget Detail and Payment Provisions

**4. Amounts Payable**

A. The amounts payable under this Agreement shall not exceed:

- 1) \$110,438.00 for the budget period of 12/01/15 through 06/30/16.
- 2) \$201,327.00 for the budget period of 07/01/16 through 06/30/17.
- 3) \$216,614.00 for the budget period of 07/01/17 through 06/30/18.
- 4) \$224,361.00 for the budget period of 07/01/18 through 06/30/19.

B. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the state fiscal year in which services are performed and/or goods are received.

**5. Travel and Per Diem Reimbursement**

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

**6. Travel and Moving Expenses Reimbursement**

- A. DHCS shall reimburse Contractor for moving expenses to the new headquarters for the borrowed employee subject to the conditions outlined in this agreement. DHCS will only reimburse Contractor for moving and storing household goods up to a maximum of \$1,000.00. For the purpose of this agreement, household goods are defined as items such as furniture, clothing, musical instruments, household appliances, food, and other items that are usual or necessary for the maintenance of one household. The definition of household goods shall not include items connected to a for profit business, items from another household, items that are permanently affixed to the property being vacated or items that would normally be discarded or recycled. DHCS shall not be liable for the movement and storage of any and all goods that are not defined as household goods under this Agreement unless prior written approval is received from DHCS.
- B. Reimbursement shall be allowed for the cost of moving the borrowed employee's effects either via commercial household goods carrier or by the borrowed employee subject to the below limitations. No reimbursement will be allowed for the hiring of casual labor. Receipts for allowable moving expenses are required for reimbursement by DHCS.
- C. When the borrowed employee retains a commercial mover, reimbursement shall be allowed for actual and necessary expenses incurred under this Agreement for the packing, insurance, transportation, storage-in-transit (excluding warehouse handling charges except when required by interstate tariffs), one delivery, unpacking and installation at the new location of the borrowed employee's household effects subject to the following limits:

**Exhibit B**  
Budget Detail and Payment Provisions

- 1) Weight of household effects for which expenses may be reimbursed shall not exceed 5,000 kilograms (11,000 pounds).
  - 2) Duration of storage-in-transit for which charges may be reimbursed shall not exceed 60 calendar days.
  - 3) Rates at which reimbursement is allowed shall not exceed the minimum rates, at the minimum declared valuation, established by the California Public Utilities Commission for household goods carriers, unless a higher rate is approved by the Department of General Services.
  - 4) Cost of insurance for which reimbursement is allowed shall not exceed the cost of insurance coverage at \$1.50 valuation for each pound of household effects shipped by household goods carrier.
- D. Or reimbursement shall be allowed as follows for expenses related to the movement by the borrowed employee of his/her household effects in a truck or trailer:
- 1) Rental of a truck or trailer from a commercial establishment. When not included in the truck rental rate, the cost of gasoline for use of the rental truck for the sole purpose to move the borrowed employee's household goods from the old residence to the new headquarters plus 50 miles. When not included in the truck rental rate, the cost of rental of a furniture dolly, packing cartons and protective pads shall be reimbursed up to a maximum of \$100.00.
  - 2) Distance at the rate of 34 cents per mile for noncommercial privately-owned motor vehicles used in transporting the borrowed employee's household effects and shall not exceed the distance from the old residence to the new headquarters plus 50 miles.
  - 3) Reimbursement for more than one trip may be allowed if DHCS has determined that the total cost would be less than the cost of movement by a commercial household goods carrier.
- E. If household goods are moved exclusively in the borrowed employee's personal vehicle, reimbursement for mileage may be claimed at the state mileage rate. No other mileage or moving expenses shall be allowed.
- F. DHCS will only reimburse Contractor for all claims of the movement of household goods with receipts and must be submitted to DHCS within 6 months of the date of service.
- G. Contractor may be reimbursed for the borrowed employee's travel from the old residence to the new residence at a rate of 9 cents per mile for one trip. DHCS will not reimburse for the travel expenses of the borrowed employee's family.
- H. DHCS will reimburse Contractor for a maximum of 14 days for actual expenses incurred by the borrowed employee for receipted temporary lodging at the new headquarters location, limited to the conditions, maximums and receipt requirements stated in this agreement. Receipts for the borrowed employee's actual costs of temporary lodging are required in order to be reimbursed by DHCS. Reimbursement for actual expenses incurred by the borrowed employee for lodging is subject to a maximum rate of \$84.00 plus tax per day with receipt.
- I. DHCS will not reimburse the Contractor for temporary lodging if the borrowed employee stays with friends or relatives.
- J. Under this Agreement, DHCS will not reimburse Contractor for any temporary lodging incurred 31 or more days after the borrowed employee's start date with DHCS.

**Exhibit B**

**Budget Detail and Payment Provisions**

- K. Claims for reimbursement of relocation expenses under this agreement must be submitted no later than 6 months from the start date of the borrowed employee with DHCS. No reimbursement will be issued prior to the borrowed employee reporting to the new headquarters.
  
- L. If the borrowed employee whose travel and moving expenses have been so paid does not continue his/her employment with DHCS for a period of two years, Contractor shall repay DHCS the following percentage of the amount received as reimbursement for such travel and moving expenses: 100 percent if employed less than 6 months; 75 percent if employed 6 months but less than 12 months; 50 percent if employed 12 months but less than 18 months; 25 percent if employed 18 months but less than 2 years. This provision will not apply if the discontinuance of the borrowed employee's employment was the result of death, prolonged illness, disability; or similar eventualities beyond the control and not caused by an action of the borrowed employee or Contractor, as determined by DHCS.



**Exhibit B Attachment I**  
**Budget**  
**Year 1**  
**(12/01/15 through 06/30/16)**

**Personnel**

Position Title	# of Staff	Monthly Salary Range	FTE %	Annual Cost
Division Chief	1	\$8,985	100%	\$ 62,895
<b>Total Salary</b>				<b>\$ 62,895</b>
<b>Fringe Benefits (45%)</b>				<b>\$ 28,303</b>
<b>Total Personnel</b>				<b>\$ 91,198</b>
<b>Travel (At CalHR reimbursement rates)</b>				<b>Total Travel \$ 1,000</b>
<b>Indirect Costs (20% of Total Personnel)</b>				<b>Indirect Costs \$ 18,240</b>
<b>Annual Budget Total</b>				<b>\$ 110,438</b>

\*Costs include rounding

**Exhibit B Attachment II**  
**Budget**  
**Year 2**  
 (07/01/16 through 06/30/17)

**Personnel**

Position Title	# of Staff	Monthly Salary Range	FTE %	Annual Cost
Division Chief	1	\$9,210 - \$9,671	100%	\$ 115,130
<b>Total Salary</b>				\$ 115,130
<b>Fringe Benefits (45%)</b>				\$ 51,809
<b>Total Personnel</b>				<b>\$ 166,939</b>
<b>Travel (At CalHR reimbursement rates)</b>				<b>Total Travel \$ 1,000</b>
<b>Indirect Costs (20% of Total Personnel)</b>				<b>Indirect Costs \$ 33,388</b>
<b>Annual Budget Total</b>				<b>\$ 201,327</b>

\*Costs include rounding

**Exhibit B Attachment III**  
 Budget  
 Year 3  
 (07/01/17 through 06/30/18)

**Personnel**

Position Title	# of Staff	Monthly Salary Range	FTE %	Annual Cost
Division Chief	1	\$9,913 - \$10,409	100%	\$ 123,916
<b>Total Salary</b>				<b>\$ 123,916</b>
<b>Fringe Benefits (45%)</b>				<b>\$ 55,762</b>
<b>Total Personnel</b>				<b>\$ 179,678</b>
<b>Travel (At CalHR reimbursement rates)</b>				<b>Total Travel \$ 1,000</b>
<b>Indirect Costs (20% of Total Personnel)</b>				<b>Indirect Costs \$ 35,936</b>
<b>Annual Budget Total</b>				<b>\$ 216,614</b>

\*Costs include rounding

**Exhibit B Attachment IV**  
**Budget**  
**Year 4**  
 (07/01/18 through 06/30/19)

**Personnel**

Position Title	# of Staff	Monthly Salary Range	FTE %	Annual Cost
Division Chief	1	\$10,669 - \$10,703	100%	\$ 128,368
<b>Total Salary</b>				<b>\$ 128,368</b>
<b>Fringe Benefits (45%)</b>				<b>\$ 57,766</b>
<b>Total Personnel</b>				<b>\$ 186,134</b>
<b>Travel (At CalHR reimbursement rates)</b>				<b>Total Travel \$ 1,000</b>
<b>Indirect Costs (20% of Total Personnel)</b>				<b>Indirect Costs \$ 37,227</b>
<b>Annual Budget Total</b>				<b>\$ 224,361</b>

\*Costs include rounding

**Exhibit D**  
Additional Provisions

**1. Amendment Process**

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

**2. Cancellation / Termination**

- A. This Agreement may be cancelled without cause by either party upon thirty (30) calendar advance written notice to the other party, subject to Exhibit A, Provision 8.F, entitled, "Employee Rights". Such notice shall state the effective date of cancellation and shall stipulate any final performance, invoicing or payment requirements.
- B. This Agreement may be cancelled by DHCS with 10 working days written notice to the Contractor should the employee incur a debilitating long term injury or illness that prevents ongoing performance. DHCS shall not be charged nor billed for the loaned employee's use of sick leave balances beyond the date of cancellation nor shall DHCS be charged or billed for any worker's compensation charges beyond the date of cancellation.
- C. DHCS may cancel or terminate this Agreement for cause and be relieved of any payments should the Contractor or assigned employee fail to perform the duties and services outlined in this Agreement at the time and in the manner herein provided. In the event of such termination, DHCS may proceed with the work in any manner deemed proper by the DHCS.
- D. In the event of early termination or cancellation, the Contractor shall be entitled to payment for all allowable costs authorized under this Agreement and incurred up to the date of termination or cancellation, including authorized non-cancelable obligations, provided such expenses do not exceed the stated maximum amounts payable.

**3. Term Extensions**

Either party to this Agreement or the assigned employee may request a term extension by giving advance written notice to the appropriate party. If the parties to this Agreement and the assigned employee agree to an extension, the term of this Agreement may be changed through the State's official agreement amendment process. Pursuant to Government Code Section 19050.8, the term of this Agreement may not exceed a maximum length of four years.

**4. Dispute Resolution Process**

- A. If a dispute arises between the Contractor and DHCS, the Contractor must seek resolution using the process 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 the grievance together with any evidence, in writing, to the program Deputy Director, Health Care Benefits and Eligibility (Deputy Director). The grievance must state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy

**Exhibit D**  
Additional Provisions

sought. The Deputy Director must render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Deputy Director shall respond in writing to the Contractor indicating the decision and reasons therefor. Should the Contractor disagree with the Deputy Director'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 the Deputy Director's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Deputy Director's decision. The appeal shall be addressed to the Chief Deputy Director of the division in which the division is organized within ten (10) working days from receipt of the Deputy Director's decision. The Chief Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Chief Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal. The decision rendered by the Chief Deputy Director or his/her designee shall be the final administrative determination of the Department.
- 3) Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.
- 4) There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

**Travel Reimbursement Information**  
**(Lodging and Per Diem Reimbursement Increase – Effective for travel on/after January 1, 2015)**

1. The following rate policy is to be applied for reimbursing the travel expenses of persons under contract. The terms "contract" and/or "subcontract" have the same meaning as "grantee" and/or "subgrantee" where applicable.
  - a. Reimbursement for travel and/or per diem shall be at the rates established for nonrepresented/excluded state employees. Exceptions to California Department of Human Resources (CalHR) lodging rates may be approved by the Department of Health Care Services (DHCS) upon the receipt of a statement on/with an invoice indicating that State employee travel rates are not available.
  - b. Short Term Travel is defined as a 24-hour period, and less than 31 consecutive days, and is at least 50 miles from the main office, headquarters or primary residence. Starting time is whenever a contract or subcontract employee leaves his or her home or headquarters. "Headquarters" is defined as the place where the contracted personnel spends the largest portion of their working time and returns to upon the completion of assignments. Headquarters may be individually established for each traveler and approved verbally or in writing by the program funding the agreement. Verbal approval shall be followed up in writing or email.
  - c. Contractors on travel status for more than one 24-hour period and less than 31 consecutive days may claim a fractional part of a period of more than 24 hours. Consult the chart appearing on Page 2 of this document to determine the reimbursement allowance. All lodging reimbursement claims must be supported by a receipt\*. If a contractor does not or cannot present receipts, lodging expenses will not be reimbursed.

(1) Lodging (with receipts\*):

<b>Travel Location / Area</b>	<b>Reimbursement Rate</b>
Statewide (excluding the counties identified below)	\$ 90.00 plus tax
Counties of Napa, Riverside and Sacramento	\$ 95.00 plus tax
Counties of Los Angeles (excluding City of Santa Monica), Orange, Ventura and Edwards AFB	\$120.00 plus tax
Counties of Alameda, Monterey, San Diego, San Mateo and Santa Clara	\$125.00 plus tax
San Francisco County and the City of Santa Monica	\$150.00 plus tax

Reimbursement for actual lodging expenses that exceed the above amounts may be allowed with the advance approval of the Deputy Director of DHCS or his or her designee. Receipts are required.

\*Receipts from Internet lodging reservation services such as Priceline.com which require prepayment for that service, ARE NOT ACCEPTABLE LODGING RECEIPTS and are not reimbursable without a valid lodging receipt from a lodging establishment.

- (2) Meal/Supplemental Expenses: With substantiating receipts, a contractor may claim actual expenses incurred up to the following maximum reimbursement rates for each full 24-hour period of travel.

<b>Meal / Expense</b>	<b>Reimbursement Rate</b>
Breakfast	\$ 7.00
Lunch	\$ 11.00
Dinner	\$ 23.00
Incidental expenses	\$ 5.00

- d. Out-of-state travel may only be reimbursed if such travel is necessitated by the scope or statement of work and has been approved in advance by the program with which the contract is held. For out-of-state travel, contractors may be reimbursed actual lodging expenses, supported by a receipt, and may be reimbursed for meals and supplemental expenses for each 24-hour period computed at the rates listed in c. (2) above. For all out-of-state travel, contractors/subcontractors must have prior DHCS written or verbal approval. Verbal approval shall be confirmed in writing (email or memo).
- e. In computing allowances for continuous periods of travel of less than 24 hours, consult the chart appearing on Page 2 of this document.
- f. No meal or lodging expenses will be reimbursed for any period of travel that occurs within normal working hours, unless expenses are incurred at least 50 miles from headquarters.

**Travel Reimbursement Information (Continued)**

Exhibit E

- If any of the reimbursement rates stated herein is changed by CalHR, no formal contract amendment will be required to incorporate the new rates. However, DHCS shall inform the contractor, in writing, of the revised travel reimbursement rates and the applicable effective date of any rate change.

At DHCS' discretion, changes or revisions made by DHCS to this exhibit, excluding travel reimbursement policies established by CalHR may be applied retroactively to any agreement to which a Travel Reimbursement Information exhibit is attached, incorporated by reference, or applied by DHCS program policy. Changes to the travel reimbursement rates stated herein may not be applied earlier than the date a rate change is approved by CalHR.

- For transportation expenses, the contractor must retain receipts for parking; taxi, airline, bus, or rail tickets; car rental; or any other travel receipts pertaining to each trip for attachment to an invoice as substantiation for reimbursement. Reimbursement may be requested for commercial carrier fares; private car mileage; parking fees; bridge tolls; taxi, bus, or streetcar fares; and auto rental fees when substantiated by a receipt.
- Auto mileage reimbursement:** If a contractor uses his/her or a company car for transportation, the rate of reimbursement will be **57.5 cents** maximum per mile. If a contractor uses his/her or a company car "in lieu of" airfare, the air coach fare will be the maximum paid by the State. The contractor must provide a cost comparison upon request by the State. Gasoline and routine automobile repair expenses are not reimbursable.
- The contractor is required to furnish details surrounding each period of travel. Travel expense reimbursement detail may include, but not be limited to: purpose of travel, departure and return times, destination points, miles driven, mode of transportation, etc. Reimbursement for travel expenses may be withheld pending receipt of adequate travel documentation.
- Contractors are to consult with the program funding the contract to obtain specific invoicing procedures.

**Per Diem Reimbursement Guide**

Length of travel period	And this condition exists...	Meal allowed with receipt
Less than 24 hours	<ul style="list-style-type: none"> <li>▶ Trip begins at or before 6:00 a.m. and ends at or after 9:00 a.m.....</li> <li>▶ Trip ends at least one hour after the regularly scheduled workday ..... ends or begins at or before 4:00 p.m. and ends after 7:00 p.m.</li> </ul> <p><b>Lunch or incidentals cannot be claimed on one-day trips.</b></p>	Breakfast  Dinner
24 hours or more	<ul style="list-style-type: none"> <li>▶ Trip begins at or before 6:00 a.m.....</li> <li>▶ Trip begins at or before 11:00 a.m.....</li> <li>▶ Trip begins at or before 5:00 p.m.....</li> </ul>	Breakfast  Lunch  dinner
More than 24 hours	<ul style="list-style-type: none"> <li>▶ Trip ends at or after 8:00 a.m.....</li> <li>▶ Trip ends at or after 2:00 p.m.....</li> <li>▶ Trip ends at or after 7:00 p.m.....</li> </ul>	Breakfast  Lunch  Dinner
<p>The following meals may <b>not</b> be claimed for reimbursement: meals provided by the State, meals included in hotel expenses or conference fees, meals included in transportation costs such as airline tickets, or meals that are otherwise provided. Snacks and/or continental breakfasts such as rolls, juice, and coffee are not considered to be a meal.</p> <p>No meal expense may be claimed for reimbursement more than once in any given 24-hour period.</p>		



**Exhibit F**

**HIPAA Business Associate Addendum**

**I. Recitals**

- A. This Contract (Agreement) has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), 42 U.S.C. section 17921 et seq., and their implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations").
- B. The Department of Health Care Services ("DHCS") wishes to disclose to Business Associate certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under federal law, and personal information ("PI") under state law.
- C. As set forth in this Agreement, Contractor, here and after, is the Business Associate of DHCS acting on DHCS' behalf and provides services, arranges, performs or assists in the performance of functions or activities on behalf of DHCS and creates, receives, maintains, transmits, uses or discloses PHI and PI. DHCS and Business Associate are each a party to this Agreement and are collectively referred to as the "parties."
- D. The purpose of this Addendum is to protect the privacy and security of the PHI and PI that may be created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act and the HIPAA regulations, including, but not limited to, the requirement that DHCS must enter into a contract containing specific requirements with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 CFR Parts 160 and 164 and the HITECH Act, and the Final Omnibus Rule as well as the Alcohol and Drug Abuse patient records confidentiality law 42 CFR Part 2, and any other applicable state or federal law or regulation. 42 CFR section 2.1(b)(2)(B) allows for the disclosure of such records to qualified personnel for the purpose of conducting management or financial audits, or program evaluation. 42 CFR Section 2.53(d) provides that patient identifying information disclosed under this section may be disclosed only back to the program from which it was obtained and used only to carry out an audit or evaluation purpose or to investigate or prosecute criminal or other activities, as authorized by an appropriate court order.
- E. The terms used in this Addendum, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

**II. Definitions**

- A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations, and the Final Omnibus Rule.
- B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations, and the final Omnibus Rule.
- C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations, and Final Omnibus Rule.
- D. Electronic Health Record shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C Section 17921 and implementing regulations.

**Exhibit F**

**HIPAA Business Associate Addendum**

- E. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103.
- F. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR section 160.103.
- G. Privacy Rule shall mean the HIPAA Regulation that is found at 45 CFR Parts 160 and 164.
- H. Personal Information shall have the meaning given to such term in California Civil Code section 1798.29.
- I. Protected Health Information means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR section 160.103.
- J. Required by law, as set forth under 45 CFR section 164.103, means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.
- K. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.
- L. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PI, or confidential data that is essential to the ongoing operation of the Business Associate's organization and intended for internal use; or interference with system operations in an information system.
- M. Security Rule shall mean the HIPAA regulation that is found at 45 CFR Parts 160 and 164.
- N. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. section 17932(h), any guidance issued pursuant to such Act, and the HIPAA regulations.

**III. Terms of Agreement**

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

***Permitted Uses and Disclosures.*** Except as otherwise indicated in this Addendum, Business Associate may use or disclose PHI only to perform functions, activities or services specified in this Agreement, for, or on behalf of DHCS, provided that such use or disclosure would not violate the

**Exhibit F**  
HIPAA Business Associate Addendum

HIPAA regulations, if done by DHCS. Any such use or disclosure must, to the extent practicable, be limited to the limited data set, as defined in 45 CFR section 164.514(e)(2), or, if needed, to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, the HIPAA regulations, the Final Omnibus Rule and 42 CFR Part 2.

1. **Specific Use and Disclosure Provisions.** Except as otherwise indicated in this Addendum, Business Associate may:
  - a. **Use and disclose for management and administration.** Use and disclose PHI for the proper management and administration of the Business Associate provided that such disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.
  - b. **Provision of Data Aggregation Services.** Use PHI to provide data aggregation services to DHCS. Data aggregation means the combining of PHI created or received by the Business Associate on behalf of DHCS with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of DHCS.

**B. Prohibited Uses and Disclosures**

1. Business Associate shall not disclose PHI about an individual to a health plan for payment or health care operations purposes if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 U.S.C. section 17935(a) and 45 CFR section 164.522(a).
2. Business Associate shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of DHCS and as permitted by 42 U.S.C. section 17935(d)(2).

**C. Responsibilities of Business Associate**

Business Associate agrees:

1. **Nondisclosure.** Not to use or disclose Protected Health Information (PHI) other than as permitted or required by this Agreement or as required by law.
2. **Safeguards.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of DHCS, in compliance with 45 CFR sections 164.308, 164.310 and 164.312, and to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate shall implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications and other requirements of 45 CFR section 164, subpart C, in compliance with 45 CFR section 164.316. Business Associate shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities, and

**Exhibit F**

## HIPAA Business Associate Addendum

which incorporates the requirements of section 3, Security, below. Business Associate will provide DHCS with its current and updated policies.

3. **Security.** To take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:
  - a. Complying with all of the data system security precautions listed in Attachment A, the Business Associate Data Security Requirements;
  - b. Achieving and maintaining compliance with the HIPAA Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of DHCS under this Agreement;
  - c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III - Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies; and
  - d. In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply with changes to these standards that occur after the effective date of this Agreement.

Business Associate shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with DHCS.

- D. **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its subcontractors in violation of the requirements of this Addendum.

**E. Business Associate's Agents and Subcontractors.**

1. To enter into written agreements with any agents, including subcontractors and vendors, to whom Business Associate provides PHI or PI received from or created or received by Business Associate on behalf of DHCS, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Business Associate with respect to such PHI and PI under this Addendum, and that comply with all applicable provisions of HIPAA, the HITECH Act the HIPAA regulations, and the Final Omnibus Rule, including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI and PI. Business associates are directly liable under the HIPAA Rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of protected health information that are not authorized by its contract or required by law. A business associate also is directly liable and subject to civil penalties for failing to safeguard electronic protected health information in accordance with the HIPAA Security Rule. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate. Business Associate shall incorporate, when applicable, the relevant provisions of this Addendum into each subcontract or subaward to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI or PI be reported to Business Associate.

**Exhibit F**

**HIPAA Business Associate Addendum**

2. In accordance with 45 CFR section 164.504(e)(1)(ii), upon Business Associate's knowledge of a material breach or violation by its subcontractor of the agreement between Business Associate and the subcontractor, Business Associate shall:
  - a. Provide an opportunity for the subcontractor to cure the breach or end the violation and terminate the agreement if the subcontractor does not cure the breach or end the violation within the time specified by DHCS; or
  - b. Immediately terminate the agreement if the subcontractor has breached a material term of the agreement and cure is not possible.

**F. Availability of Information to DHCS and Individuals.** To provide access and information:

1. To provide access as DHCS may require, and in the time and manner designated by DHCS (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to DHCS (or, as directed by DHCS), to an Individual, in accordance with 45 CFR section 164.524. Designated Record Set means the group of records maintained for DHCS that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for DHCS health plans; or those records used to make decisions about individuals on behalf of DHCS. Business Associate shall use the forms and processes developed by DHCS for this purpose and shall respond to requests for access to records transmitted by DHCS within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.
2. If Business Associate maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Business Associate shall provide such information in an electronic format to enable DHCS to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. section 17935(e).
3. If Business Associate receives data from DHCS that was provided to DHCS by the Social Security Administration, upon request by DHCS, Business Associate shall provide DHCS with a list of all employees, contractors and agents who have access to the Social Security data, including employees, contractors and agents of its subcontractors and agents.

**G. Amendment of PHI.** To make any amendment(s) to PHI that DHCS directs or agrees to pursuant to 45 CFR section 164.526, in the time and manner designated by DHCS.

**H. Internal Practices.** To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from DHCS, or created or received by Business Associate on behalf of DHCS, available to DHCS or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by DHCS or by the Secretary, for purposes of determining DHCS' compliance with the HIPAA regulations. If any information needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Business Associate, Business Associate shall so certify to DHCS and shall set forth the efforts it made to obtain the information.

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## HIPAA Business Associate Addendum

- I. **Documentation of Disclosures.** To document and make available to DHCS or (at the direction of DHCS) to an Individual such disclosures of PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 CFR section 164.528 and 42 U.S.C. section 17935(c). If Business Associate maintains electronic health records for DHCS as of January 1, 2009, Business Associate must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after January 1, 2014. If Business Associate acquires electronic health records for DHCS after January 1, 2009, Business Associate must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after the date the electronic health record is acquired, or on or after January 1, 2011, whichever date is later. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting.
- J. **Breaches and Security Incidents.** During the term of this Agreement, Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:
1. **Notice to DHCS.** (1) To notify DHCS **immediately** upon the discovery of a suspected security incident that involves data provided to DHCS by the Social Security Administration. This notification will be **by telephone call plus email or fax** upon the discovery of the breach. (2) To notify DHCS **within 24 hours by email or fax** of the discovery of unsecured PHI or PI in electronic media or in any other media if the PHI or PI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Business Associate as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Business Associate.

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

<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>

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

- a. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and
- b. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

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## HIPAA Business Associate Addendum

2. **Investigation and Investigation Report.** To immediately investigate such security incident, breach, or unauthorized access, use or disclosure of PHI or PI. If the initial report did not include all of the requested information marked with an asterisk, then within 72 hours of the discovery, Business Associate shall submit an updated "DHCS Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer:
3. **Complete Report.** To provide a complete report of the investigation to the DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. If all of the required information was not included in either the initial report, or the Investigation Report, then a separate Complete Report must be submitted. The report shall be submitted on the "DHCS Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, the HIPAA regulations and/or state law. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If DHCS requests information in addition to that listed on the "DHCS Privacy Incident Report" form, Business Associate shall make reasonable efforts to provide DHCS with such information. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "DHCS Privacy Incident Report" form. DHCS will review and approve or disapprove the determination of whether a breach occurred, is reportable to the appropriate entities, if individual notifications are required, and the corrective action plan.
4. **Notification of Individuals.** If the cause of a breach of PHI or PI is attributable to Business Associate or its subcontractors, agents or vendors, Business Associate shall notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and shall pay any costs of such notifications, as well as any costs associated with the breach. The notifications shall comply with the requirements set forth in 42 U.S.C. section 17932 and its implementing regulations, including, but not limited to, the requirement that the notifications be made without unreasonable delay and in no event later than 60 calendar days. The DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made.
5. **Responsibility for Reporting of Breaches.** If the cause of a breach of PHI or PI is attributable to Business Associate or its agents, subcontractors or vendors, Business Associate is responsible for all required reporting of the breach as specified in 42 U.S.C. section 17932 and its implementing regulations, including notification to media outlets and to the Secretary. If a breach of unsecured PHI involves more than 500 residents of the State of California or its jurisdiction, Business Associate shall notify the Secretary of the breach immediately upon discovery of the breach. If Business Associate has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to DHCS in addition to Business Associate, Business Associate shall notify DHCS, and DHCS and Business Associate may take appropriate action to prevent duplicate reporting. The breach reporting requirements of this paragraph are in addition to the reporting requirements set forth in subsection 1, above.
6. **DHCS Contact Information.** To direct communications to the above referenced DHCS staff, the Contractor shall initiate contact as indicated herein. DHCS reserves the right to make changes to

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**HIPAA Business Associate Addendum**

the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

DHCS Program Contract Manager	DHCS Privacy Officer	DHCS Information Security Officer
See the Scope of Work exhibit for Program Contract Manager information	Privacy Officer c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413  Email: <a href="mailto:privacyofficer@dhcs.ca.gov">privacyofficer@dhcs.ca.gov</a>  Telephone: (916) 445-4646  Fax: (916) 440-7680	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413  Email: <a href="mailto:iso@dhcs.ca.gov">iso@dhcs.ca.gov</a> Fax: (916) 440-5537  Telephone: EITS Service Desk (916) 440-7000 or (800) 579-0874

**K. Termination of Agreement.** In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Business Associate knows of a material breach or violation by DHCS of this Addendum, it shall take the following steps:

1. Provide an opportunity for DHCS to cure the breach or end the violation and terminate the Agreement if DHCS does not cure the breach or end the violation within the time specified by Business Associate; or
2. Immediately terminate the Agreement if DHCS has breached a material term of the Addendum and cure is not possible.

**L. Due Diligence.** Business Associate shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Addendum and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this Addendum.

**M. Sanctions and/or Penalties.** Business Associate understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Business Associate may result in the imposition of sanctions and/or penalties on Business Associate under HIPAA, the HITECH Act and the HIPAA regulations.

**IV. Obligations of DHCS**

DHCS agrees to:

**A. Notice of Privacy Practices.** Provide Business Associate with the Notice of Privacy Practices that DHCS produces in accordance with 45 CFR section 164.520, as well as any changes to such notice. Visit the DHCS Privacy Office to view the most current Notice of Privacy Practices at: <http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/default.aspx> or the DHCS website at [www.dhcs.ca.gov](http://www.dhcs.ca.gov) (select "Privacy in the left column and "Notice of Privacy Practices" on the right side of the page).

**B. Permission by Individuals for Use and Disclosure of PHI.** Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures.



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**C. Notification of Restrictions.** Notify the Business Associate of any restriction to the use or disclosure of PHI that DHCS has agreed to in accordance with 45 CFR section 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.

**D. Requests Conflicting with HIPAA Rules.** Not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by DHCS.

**V. Audits, Inspection and Enforcement**

**A.** From time to time, DHCS may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement and this Addendum. Business Associate shall promptly remedy any violation of any provision of this Addendum and shall certify the same to the DHCS Privacy Officer in writing. The fact that DHCS inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems and procedures does not relieve Business Associate of its responsibility to comply with this Addendum, nor does DHCS':

1. Failure to detect or
2. Detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of DHCS' enforcement rights under this Agreement and this Addendum.

**B.** If Business Associate is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office of Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Addendum, Business Associate shall notify DHCS and provide DHCS with a copy of any PHI or PI that Business Associate provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI or PI to the Secretary. Business Associate is responsible for any civil penalties assessed due to an audit or investigation of Business Associate, in accordance with 42 U.S.C. section 17934(c).

**VI. Termination**

**A. Term.** The Term of this Addendum shall commence as of the effective date of this Addendum and shall extend beyond the termination of the contract and shall terminate when all the PHI provided by DHCS to Business Associate, or created or received by Business Associate on behalf of DHCS, is destroyed or returned to DHCS, in accordance with 45 CFR 164.504(e)(2)(ii)(I).

**B. Termination for Cause.** In accordance with 45 CFR section 164.504(e)(1)(ii), upon DHCS' knowledge of a material breach or violation of this Addendum by Business Associate, DHCS shall:

1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by DHCS; or
2. Immediately terminate this Agreement if Business Associate has breached a material term of this Addendum and cure is not possible.

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- C. *Judicial or Administrative Proceedings.*** Business Associate will notify DHCS if it is named as a defendant in a criminal proceeding for a violation of HIPAA. DHCS may terminate this Agreement if Business Associate is found guilty of a criminal violation of HIPAA. DHCS may terminate this Agreement if a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined.
- D. *Effect of Termination.*** Upon termination or expiration of this Agreement for any reason, Business Associate shall return or destroy all PHI received from DHCS (or created or received by Business Associate on behalf of DHCS) that Business Associate still maintains in any form, and shall retain no copies of such PHI. 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. Business Associate shall continue to extend the protections of this Addendum to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

**VII. Miscellaneous Provisions**

- A. *Disclaimer.*** DHCS makes no warranty or representation that compliance by Business Associate with this Addendum, HIPAA or the HIPAA regulations will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- B. *Amendment.*** The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon DHCS' request, Business Associate agrees to promptly enter into negotiations with DHCS concerning an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. DHCS may terminate this Agreement upon thirty (30) days written notice in the event:
1. Business Associate does not promptly enter into negotiations to amend this Addendum when requested by DHCS pursuant to this Section; or
  2. Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that DHCS in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
- C. *Assistance in Litigation or Administrative Proceedings.*** Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Agreement, 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 or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.

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- D. *No Third-Party Beneficiaries.*** Nothing express or implied in the terms and conditions of this Addendum is intended to confer, nor shall anything herein confer, upon any person other than DHCS or Business Associate and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.
- E. *Interpretation.*** The terms and conditions in this Addendum shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations.
- F. *Regulatory References.*** A reference in the terms and conditions of this Addendum to a section in the HIPAA regulations means the section as in effect or as amended.
- G. *Survival.*** The respective rights and obligations of Business Associate under Section VI.D of this Addendum shall survive the termination or expiration of this Agreement.
- H. *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.

**Exhibit F**

## HIPAA Business Associate Addendum

**Attachment A**

## Business Associate Data Security Requirements

**I. Personnel Controls**

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

**II. Technical Security Controls**

- A. *Workstation/Laptop encryption.*** All workstations and laptops that process and/or store DHCS PHI or PI must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the DHCS Information Security Office.
- B. *Server Security.*** Servers containing unencrypted DHCS PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- C. *Minimum Necessary.*** Only the minimum necessary amount of DHCS PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- D. *Removable media devices.*** All electronic files that contain DHCS PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, smartphones, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.

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- E. *Antivirus software.*** All workstations, laptops and other systems that process and/or store DHCS PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- F. *Patch Management.*** All workstations, laptops and other systems that process and/or store DHCS PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- G. *User IDs and Password Controls.*** All users must be issued a unique user name for accessing DHCS PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z)
  - Lower case letters (a-z)
  - Arabic numerals (0-9)
  - Non-alphanumeric characters (punctuation symbols)
- H. *Data Destruction.*** When no longer needed, all DHCS PHI or PI must be cleared, purged, or destroyed consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization such that the PHI or PI cannot be retrieved.
- I. *System Timeout.*** The system providing access to DHCS PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- J. *Warning Banners.*** All systems providing access to DHCS PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- K. *System Logging.*** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for DHCS PHI or PI, or which alters DHCS PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If DHCS PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- L. *Access Controls.*** The system providing access to DHCS PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.

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HIPAA Business Associate Addendum

- M. *Transmission encryption.*** All data transmissions of DHCS PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI or PI in motion such as website access, file transfer, and E-Mail.
- N. *Intrusion Detection.*** All systems involved in accessing, holding, transporting, and protecting DHCS PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

**III. Audit Controls**

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

**IV. Business Continuity / Disaster Recovery Controls**

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

**V. Paper Document Controls**

- A. *Supervision of Data.*** DHCS PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. DHCS PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. *Escorting Visitors.*** Visitors to areas where DHCS PHI or PI is contained shall be escorted and DHCS PHI or PI shall be kept out of sight while visitors are in the area.

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- C. **Confidential Destruction.** DHCS PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
- D. **Removal of Data.** DHCS PHI or PI must not be removed from the premises of the Contractor except with express written permission of DHCS.
- E. **Faxing.** Faxes containing DHCS PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
- F. **Mailing.** Mailings of DHCS PHI or PI shall be sealed and secured from damage or inappropriate viewing of PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of DHCS PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of DHCS to use another method is obtained.

**Exhibit G**  
Information Confidentiality and Security Requirements

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

Notice-triggering Personal Information: Specific items of personal information (name plus Social Security number, driver license/California identification card number, or financial account number) that may trigger a requirement to notify individuals if it is acquired by an unauthorized person. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph. See Civil Code sections 1798.29 and 1798.82.
2. **Nondisclosure.** The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure any Personal Information, Sensitive Information, or Confidential Information (hereinafter identified as PSCI).
3. The Contractor and its employees, agents, or subcontractors shall not use any PSCI for any purpose other than carrying out the Contractor's obligations under this Agreement.
4. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of any PSCI not emanating from the person who is the subject of PSCI.
5. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the person who is the subject of PSCI, any PSCI to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.



**Exhibit G**  
Information Confidentiality and Security Requirements

6. The Contractor shall observe the following requirements:

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

**1) Personnel Controls**

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

**2) Technical Security Controls**

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

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

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

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

**3) Audit Controls**

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

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

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

**5) Paper Document Controls**

- a. Supervision of Data.** DHCS PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that

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information is not being observed by an employee authorized to access the information. DHCS PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

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

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

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

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

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“Business Use” near the middle of the page) or use this link:  
<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>

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

DHCS Program Contract Manager	DHCS Privacy Officer	DHCS Information Security Officer
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Information Confidentiality and Security Requirements

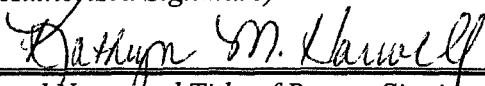
See the Scope of Work exhibit for Program Contract Manager information	Privacy Officer c/o Office of Legal Services Department of Health Care Services P.O. Box 997413, MS 0011 Sacramento, CA 95899-7413  Email: <a href="mailto:privacyofficer@dhcs.ca.gov">privacyofficer@dhcs.ca.gov</a>  Telephone: (916) 445-4646	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413  Email: <a href="mailto:iso@dhcs.ca.gov">iso@dhcs.ca.gov</a>  Telephone: ITSD Help Desk (916) 440-7000 or (800) 579-0874
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9. **Audits and Inspections.** From time to time, DHCS may inspect the facilities, systems, books and records of the Contractor to monitor compliance with the safeguards required in the Information Confidentiality and Security Requirements (ICSR) exhibit. Contractor shall promptly remedy any violation of any provision of this ICSR exhibit. The fact that DHCS inspects, or fails to inspect, or has the right to inspect, Contractor's facilities, systems and procedures does not relieve Contractor of its responsibility to comply with this ICSR exhibit.

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**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 Community Services Agency		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i> 		
<i>Printed Name and Title of Person Signing</i> Kathryn M. Harwell, Director		
<i>Date Executed</i> 10/27/15	<i>Executed in the County of</i> Stanislaus County	

**CONTRACTOR CERTIFICATION CLAUSES**

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 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](http://www.dir.ca.gov), and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,



or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts 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.

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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.