

STANDARD AGREEMENT AMENDMENT

STD. 213A_DHCS (Rev. 04/19)

☒ Check here if additional pages are added: 68 Page(s)

Agreement Number 17-94153	Amendment Number A02
Registration Number:	

1. This Agreement is entered into between the State Agency and 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 San Bernardino**2. The term of this Agreement is:** July 1, 2017
through June 30, 2020**3. The maximum amount of this Agreement after this amendment is:** **\$ 31,786,517**
Thirty-One Million, Seven Hundred Eighty-Six Thousand, Five Hundred Seventeen Dollars**4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:****I. The effective date of this amendment is the date approved by DHCS.****II. Purpose of amendment:** This amendment modifies the terms and conditions as outlined in the original contract and increases budget year 3.**III. Certain changes made in this amendment are shown as: Text additions are displayed in bold and underline. Text deletions are displayed as strike through text (i.e., ~~Strike~~).****IV. Paragraph 3 (maximum amount payable) on the face of the original STD 213 is increased by \$ 244,083 and is amended to read: ~~\$31,542,434 (Thirty-One Million, Five Hundred Forty-Two Thousand, Four Hundred Thirty-Four Dollars)~~ **\$31,786,517 (Thirty-One Million, Seven Hundred Eighty-Six Thousand, Five Hundred Seventeen Dollars)**.**

(Continued on next page)

All other terms and conditions shall remain the same.

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 San Bernardino

By(Authorized Signature)

Date Signed (Do not type)

Printed Name and Title of Person Signing

Curt Hagman, Chairman of the Board of Supervisors

Address

**303 East Vanderbilt Way
San Bernardino, CA 92415-0026****STATE OF CALIFORNIA**

Agency Name

Department of Health Care Services

By (Authorized Signature)

Date Signed (Do not type)

Printed Name and Title of Person Signing

Carrie Talbot, SSMI, Contracts Section

Address

**1000 G Street, 4th Floor, MS 4200, P.O. Box 997413,
Sacramento, CA 95899-7413****CALIFORNIA
Department of General Services
Use Only**☐ Exempt per: **W&I Code 14087.4**

- V. Paragraph 4 (incorporated exhibits) on the face of the original STD 213 is amended to add the following revised exhibit:

Exhibit A, Attachment I A2 – Program Specifications (25 pages)

All references to Exhibit A, Attachment I A1 – Program Specifications, in any exhibit incorporated into this agreement, shall hereinafter be deemed to read Exhibit A, Attachment I A2 – Program Specifications. Exhibit A, Attachment 1 A1 – Program Specifications is hereby replaced in its entirety by the revised exhibit.

- VI. Paragraph 4 (incorporated exhibits) on the face of the original STD 213 is amended to add the following revised exhibit:

Exhibit B A2 – Budget Detail and Payment Provisions (14 pages)

All references to Exhibit B A1– Budget Detail and Payment Provisions, in any exhibit incorporated into this agreement, shall hereinafter be deemed to read Exhibit B A2 – Budget Detail and Payment Provisions. Exhibit B A1– Budget Detail and Payment Provisions is hereby replaced in its entirety by the revised exhibit.

- VII. Paragraph 4 (incorporated exhibits) on the face of the original STD 213 is amended to add the following revised exhibit:

Exhibit B, Attachment I A2 – Funding Amounts (1 page)

All references to Exhibit B Attachment I A1– Funding Amounts, in any exhibit incorporated into this agreement, shall hereinafter be deemed to read Exhibit B Attachment I A2 – Funding Amounts. Exhibit B Attachment I A1 – Funding Amounts is hereby replaced in its entirety by the attached revised exhibit.

- VIII. Paragraph 4 (incorporated exhibits) on the face of the original STD 213 is amended to add the following revised exhibit:

Exhibit D(F) – Special Terms and Conditions (27 pages)

All references to Exhibit D(F) – Special Terms and Conditions (rev 8/17) in any exhibit incorporated into this agreement shall herein after be deemed to read Exhibit D(F) – Special Terms and Conditions (rev 03/19). Exhibit D(F) – Special Terms and Conditions is hereby replaced in its entirety by the attached revised exhibit with the revision date of 3/19.

- IX. All other terms and conditions shall remain the same.

Contractor Certification Clause

CCC 04/2017

CERTIFICATION

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

Contractor/Bidder Firm Name (Printed)	Federal ID Number
---------------------------------------	-------------------

By (Authorized Signature)

Printed Name and Title of Person Signing

Date Executed	Executed in the County of
---------------	---------------------------

CONTRACTOR CERTIFICATION CLAUSES

STATEMENT OF COMPLIANCE:

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

DRUG-FREE WORKPLACE REQUIREMENTS:

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

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

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

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

NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

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

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

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

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

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

EXPATRIATE CORPORATIONS:

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

SWEATFREE CODE OF CONDUCT:

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

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

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

DOMESTIC PARTNERS:

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

GENDER IDENTITY:

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

DOING BUSINESS WITH THE STATE OF CALIFORNIA

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

CONFLICT OF INTEREST:

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

a) Current State Employees (PCC 10410):

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

b) Former State Employees (PCC 10411):

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

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

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

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

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

LABOR CODE/WORKERS' COMPENSATION:

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

AMERICANS WITH DISABILITIES ACT:

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

CONTRACTOR NAME CHANGE:

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

CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

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

standing by calling the Office of the Secretary of State.

RESOLUTION:

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

AIR OR WATER POLLUTION VIOLATION:

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

PAYEE DATA RECORD FORM STD. 204:

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

CALIFORNIA CIVIL RIGHTS LAWS CERTIFICATION

Pursuant to Public Contract Code section 2010, if a bidder or proposer executes or renews a contract over \$100,000 on or after January 1, 2017, the bidder or proposer hereby certifies compliance with the following:

1. **CALIFORNIA CIVIL RIGHTS LAWS**: For contracts over \$100,000 executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and
2. **EMPLOYER DISCRIMINATORY POLICIES**: For contracts over \$100,000 executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

CERTIFICATION

I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.		<i>Federal ID Number</i>
<i>Proposer/Bidder Firm Name (Printed)</i> County of San Bernardino		95-6002748
<i>By (Authorized Signature)</i> 		
<i>Printed Name and Title of Person Signing</i> Curt Hagman, Chairman of the Board of Supervisors		
<i>Date Executed</i> 	<i>Executed in the County and State of</i> San Bernardino, California	

**Exhibit A, Attachment I A2
Program Specifications**

Part I - Substance Use Disorder Prevention and Treatment Block Grant Services

Section 1 - Formation and Purpose

A. Authority

1. This Exhibit A, Attachment I, Part I of the Contract is entered into by and between the Department of Health Care Services (DHCS) and the Contractor, under the authority of Chapter 3 of Part 1, Division 10.5 of the Health and Safety Code (HSC), and with the approval of Contractor's County Board of Supervisors (or designee), for the purpose of providing alcohol and drug services, and shall be reimbursed pursuant to Exhibit A, Attachment I. DHCS and the Contractor identified in the Standard Agreement are the sole parties to this Contract. This Contract is not intended, nor shall it be construed, to confer rights on any third party.

B. Federal Award Subrecipient

1. The Substance Abuse Prevention and Treatment Block Grant (SABG) is a federal award within the meaning of Title 45, Code of Federal Regulations (CFR), Part 75. This Contract is a subaward of the federal award to DHCS.
2. Contractor is a subrecipient and subject to all applicable administrative requirements, cost principles, and audit requirements that govern federal monies associated with the SABG set forth in the Uniform Guidance 2 CFR Part 200, as codified by the U.S. Department of Health and Human Services (HHS) at 45 CFR Part 75.
3. As a subrecipient, the Contractor shall:
 - a) Maintain effective internal control over the SABG funds.
 - b) Comply with federal statutes, regulations, including 45 CFR Part 75, and terms and conditions of the SABG grant.
 - c) Evaluate and monitor its activities and the activities of all subcontractors for compliance with applicable statutes, regulations, and terms and conditions of the subaward.
 - d) Address any instances of noncompliance promptly, including noncompliance identified in audit findings.
4. The Contractor shall disclose, in writing to DHCS, any potential conflict of interest in accordance with HHS' grant policy.
(<https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsqps107.pdf>).

**Exhibit A, Attachment I A2
Program Specifications**

5. The Contractor shall timely disclose, in writing to DHCS, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the grant. If the Contractor fails to make a required disclosure, DHCS may seek those remedies described in 45 CFR Section 75.371.
6. The Contractor shall have a single audit performed in accordance with the audit requirements set forth in 45 CFR Part 75, Subpart F.

C. Control Requirements

1. Performance under the terms of this Exhibit A, Attachment I, Part I, is subject to all applicable federal and state laws, regulations, and standards. In accepting DHCS drug and alcohol SABG allocation pursuant to HSC Sections 11814(a) and (b), Contractor shall: (i) establish, and shall require its subcontractors to establish, written policies and procedures consistent with the control requirements set forth below; (ii) monitor for compliance with the written procedures; and (iii) be accountable for audit exceptions taken by DHCS against the Contractor and its subcontractors for any failure to comply with these requirements:
 - a) HSC, Division 10.5, Part 2 commencing with Section 11760.
 - b) Title 9, California Code of Regulations (CCR) (herein referred to as Title 9), Division 4, commencing with Section 9000.
 - c) Government Code, Title 2, Division 4, Part 2, Chapter 2, Article 1.7.
 - d) Government Code, Article 7, Federally Mandated Audits of Block Grant Funds Allocated to Local Agencies, Chapter 1, Part 1, Division 2, Title 5, commencing at Section 53130.
 - e) Title 42 United State Code (USC), Sections 300x-21 through 300x-31, 300x-34, 300x-53, 300x-57, and 330x-64 through 66.
 - f) Title 2, CFR 200 -The Uniform Administration Requirements, Cost Principles and Audit Requirements for Federal Awards.
 - g) Title 45, Code of Federal Regulations (CFR), Sections 96.30 through 96.33 and Sections 96.120 through 96.137.
 - h) Title 42, CFR, Sections 8.1 through 8.6.
 - i) Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR Part 2, Subparts A – E).

**Exhibit A, Attachment I A2
Program Specifications**

- j) Title 21, CFR, Sections 1301.01 through 1301.93, Department of Justice, Controlled Substances.
- k) State Administrative Manual (SAM), Chapter 7200 (General Outline of Procedures).

Contractor shall be familiar with the above laws, regulations, and guidelines and shall assure that its subcontractors are also familiar with such requirements.

- 2. The provisions of this Exhibit A, Attachment I, Part I, are not intended to abrogate any provisions of law or regulation, or any standards existing or enacted during the term of this Contract.
- 3. Contractor shall adhere to the applicable provisions of Title 45, CFR, Part 96, Subparts C and L, as applicable, in the expenditure of SABG funds. Document 1A, 45 CFR 96, Subparts C and L, is incorporated by reference.
- 4. Driving-Under-the-Influence Program Requirements (Documents 1C) contains additional requirements that shall be adhered to by the Contractor.
- 5. Contractor and all its subcontractors shall comply with the Minimum Quality Drug Treatment Standards for SABG for all Substance Use Disorder (SUD) treatment programs either partially or fully funded by SABG. The Minimum Quality Drug Treatment Standards for SABG are attached to this Contract as Document 2F(b), incorporated by reference. The incorporation of any new Minimum Quality Drug Treatment Standards into this Contract shall not require a formal amendment.

Section 2 – General Provisions

A. Restrictions on Salaries

Contractor agrees that no part of any federal funds provided under this Contract shall be used by the Contractor or its subcontractors to pay the salary and wages of an individual at a rate in excess of Level I of the Executive Schedule. Salary and wages schedules may be found at https://grants.nih.gov/grants/policy/salcap_summary.htm. SABG funds used to pay a salary in excess of the rate of basic pay for Level I of the Executive Schedule shall be subject to disallowance. The amount disallowed shall be determined by subtracting the individual's actual salary from the Level I rate of basic pay and multiplying the result by the percentage of the individual's salary that was paid with SABG funds (Reference: Terms and Conditions of the SABG award).

B. Primary Prevention

- 1. The SABG regulation defines "Primary Prevention Programs" as those programs "directed at individuals who have not been determined to require treatment for

**Exhibit A, Attachment I A2
Program Specifications**

substance abuse” (45 CFR 96.121), and “a comprehensive prevention program which includes a broad array of prevention strategies directed at individuals not identified to be in need of better treatment” (45 CFR 96.125). Primary prevention includes strategies, programs, and initiatives which reduce both direct and indirect adverse personal, social, health, and economic consequences resulting from problematic Alcohol and Other Drug (AOD) availability, manufacture, distribution, promotion, sales, and use. The desired result of primary prevention is to promote safe and healthy behaviors and environments for individuals, families, and communities. The Contractor shall expend not less than its allocated amount of the SABG Primary Prevention Set-Aside funds on primary prevention as described in the SABG requirements (45 CFR 96.124).

2. Contractor is required to have a current and DHCS approved County Strategic Prevention Plan (SPP). The SPP must demonstrate that the County utilized the Substance Abuse and Mental Health Services Administration’s Strategic Prevention Framework (SPF) in developing the plan as described at <http://www.samhsa.gov/capt/applying-strategic-prevention-framework>. DHCS will only approve SPP’s that demonstrate that the Contractor utilized the SPF. Contractor shall:
 - a) Follow DHCS guidelines provided in the SPP Workbook for Counties utilizing the SPF (http://www.dhcs.ca.gov/provgovpart/Documents/Substance%20Use%20Disorder-PPFD/SPP_Workbook.pdf).
 - b) Begin preparing a new SPP by October 1 of the year prior to the expiration date of the current SPP.
 - c) Submit a timeline, no later than October 1 of the year prior to the expiration date of the current SPP, for approval to DHCS Prevention Analyst that includes proposed dates for submitting each chapter of the SPP (outlined in the SPP Workbook).
 - d) Submit drafts of each SPP chapter to DHCS Prevention Analyst for review and approval according to the approved timeline.
 - e) Submit a completed draft of the SPP to DHCS Prevention Analyst no later than May 31st that includes the previously approved chapters for final review and approval.
 - f) Provide an electronic copy of the final SPP to DHCS Prevention Analyst within 10 business days of approval and input planning data from the approved SPP into the Primary Prevention Substance Use Disorder Data Service (PPSDS)

**Exhibit A, Attachment I A2
Program Specifications**

according to the PPSDS Data Quality Standards
(http://www.dhcs.ca.gov/provgovpart/Documents/Substance%20Use%20Disorder-PPFD/PPSDS_Data_Quality_Standards.pdf).

C. Friday Night Live

Contractors and subcontractors receiving SABG Friday Night Live (FNL) funding must:

1. Engage in programming that meets the FNL Youth Development Standards of Practice, Operating Principles and Core Components outlined at <http://fridaynightlive.org/about-us/cfnlp-overview/>.
2. Use the prevention data collection and reporting service for all FNL reporting including profiles and chapter activity.
3. Follow the FNL Data Entry Instructions for the PPSDS as provided by DHCS.
4. Meet the Member in Good Standing (MIGS) requirements, as determined by DHCS in conjunction with the California Friday Night Live Collaborative and the California Friday Night Live Partnership. Contractors that do not meet the MIGS requirements shall obtain technical assistance and training services from the California Friday Night Live Partnership and develop a technical assistance plan detailing how the Contractor intends to ensure satisfaction of the MIGS requirements for the next review.

D. Perinatal Practice Guidelines

Contractor shall comply with the perinatal program requirements as outlined in the Perinatal Practice Guidelines. The Perinatal Practice Guidelines FY 2018-19 are attached to this Contract as Document 1G, incorporated by reference. The Contractor shall comply with the current version of these guidelines until new Perinatal Practice Guidelines are established and adopted. The incorporation of any new Perinatal Practice Guidelines into this Contract shall not require a formal amendment. Contractor receiving SABG funds must adhere to the Perinatal Practice Guidelines, regardless of whether the Contractor exchanges perinatal funds for additional discretionary funds.

- E.** Funds identified in this Contract shall be used exclusively for county alcohol and drug abuse services to the extent activities meet the requirements for receipt of federal block grant funds for prevention and treatment of substance abuse described in subchapter XVII of Chapter 6A of Title 42, the USC.
- F.** Room and Board for Transitional Housing, Recovery Residences, and Drug Medi-Cal Organized Delivery System (DMC-ODS) Residential Treatment.

**Exhibit A, Attachment I A2
Program Specifications**

1. Contractor may use SABG discretionary funds, or SABG perinatal funds (for perinatal beneficiaries only), to cover the cost of room and board of residents in short term (up to 24 months) transitional housing and recovery residences. SABG discretionary funds, or SABG perinatal funds (for perinatal beneficiaries only), may also be used to cover the cost of room and board of residents in DMC-ODS residential treatment facilities. For specific guidelines on the use of SABG funds for room and board, please refer to the SABG Policy Manual.

G. Restrictions on Use of SABG Funds to Pay for Services Reimbursable by Medi-Cal

1. Contractor shall not utilize SABG funds to pay for a service that is reimbursable by Medi-Cal.
2. The Contractor may utilize SABG funds to pay for a service included in the California State Plan or the Drug Medi-Cal Organized Delivery System (DMC-ODS), but which is not reimbursable by Medi-Cal.
3. If the Contractor utilizes SABG funds to pay for a service that is included in the California State Plan or the DMC-ODS, the Contractor shall maintain documentation sufficient to demonstrate that Medi-Cal reimbursement was not available.

Section 3 - Performance Provisions

A. Monitoring

1. Contractor's performance under this Exhibit A, Attachment I, Part I, shall be monitored by DHCS during the term of this Contract. Monitoring criteria shall include, but not be limited to:
 - a) Whether the quantity of work or services being performed conforms to Exhibit B.
 - b) Whether the Contractor has established and is monitoring appropriate quality standards.
 - c) Whether the Contractor is abiding by all the terms and requirements of this Contract.
 - d) Whether the Contractor is abiding by the terms of the Perinatal Practice Guidelines (Document 1G).
 - e) Whether the Contractor conducted annual onsite monitoring reviews of services and subcontracted services for programmatic and fiscal requirements. Contractor shall submit copy of its monitoring and audit reports to DHCS within

**Exhibit A, Attachment I A2
Program Specifications**

two weeks of issuance. Reports shall be sent by secure, encrypted e-mail to:

SUDCountyReports@dhcs.ca.gov or

Substance Use Disorder – Program, Policy, and Fiscal Division
Performance and Integrity Branch
Department of Health Care Services
PO Box 997413, MS-2627
Sacramento, CA 95899-7413

2. Failure to comply with the above provisions shall constitute grounds for DHCS to suspend or recover payments, subject to the Contractor's right of appeal, or may result in termination of the Contract, or both.

B. Performance Requirements

1. Contractor shall provide services based on funding set forth in Exhibit B, Attachment I and under the terms of this Contract.
2. Contractor shall provide services to all eligible persons in accordance with federal and state statutes and regulations. Contractor shall assure that in planning for the provision of services, the following barriers to services are considered and addressed:
 - a) Lack of educational materials or other resources for the provision of services.
 - b) Geographic isolation and transportation needs of persons seeking services or remoteness of services.
 - c) Institutional, cultural, and/or ethnicity barriers.
 - d) Language differences.
 - e) Lack of service advocates.
 - f) Failure to survey or otherwise identify the barriers to service accessibility.
 - g) Needs of persons with a disability.
3. Contractor shall comply with any additional requirements of the documents that have been incorporated herein by reference, including, but not limited to, those on the ~~“List of Exhibit A, Attachment I “Documents Incorporated by Reference,” for Fiscal Year 2017-18”~~ which is attached to this Exhibit A, Attachment I.

**Exhibit A, Attachment I A2
Program Specifications**

4. The funds described in Exhibit A, Attachment I shall be used exclusively for providing alcohol and/or drug program services.
5. DHCS shall issue a report to Contractor after conducting monitoring, utilization, or auditing reviews of the county or county subcontracted providers. When the DHCS report identifies non-compliant services or processes, it shall require a Corrective Action Plan (CAP). The Contractor in coordination with its subcontracted provider shall submit a CAP to DHCS within the designated timeframe specified by DHCS. The CAP shall be sent by secure, encrypted e-mail to:
SUDCountyReports@dhcs.ca.gov or

Substance Use Disorder - Program, Policy, and Fiscal Division
Performance and Integrity Branch
Department of Health Care Services
PO Box 997413, MS-2621
Sacramento, CA 95899-7413

6. The CAP shall:
 - a) Restate each deficiency.
 - b) List all of actions to be taken to correct each deficiency.
 - c) Identify the date by which each deficiency shall be corrected.
 - d) Identify the individual who will be responsible for correction and ongoing compliance.
7. DHCS will provide written approval of the CAP to the Contractor within 30 calendar days. If DHCS does not approve the CAP submitted by the Contractor, DHCS will provide guidance on the deficient areas and request an updated CAP from the Contractor with a new deadline for submission.
8. If the Contractor does not submit a CAP, or, does not implement the approved CAP provisions within the designated timeline, then DHCS may withhold funds until the Contractor is in compliance. DHCS shall inform the Contractor when funds will be withheld.

C. Sub-recipient Pre-Award Risk Assessment

Contractor shall comply with the sub-recipient pre-award risk assessment requirements contained in 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. Contractor shall review the merit and risk associated with all potential subcontractors annually prior to making an award.

**Exhibit A, Attachment I A2
Program Specifications**

Contractor shall perform and document annual sub-recipient pre-award risk assessments for each subcontractor and retain documentation for audit purposes.

Section 4 - Investigations and Confidentiality of Administrative Actions

- A. Contractor shall execute the Confidentiality Agreement, attached as Document 5A. The Confidentiality Agreement permits DHCS to communicate with Contractor concerning subcontracted providers that are subject to administrative sanctions.

Part II – General

- A. Additional Contract Restrictions

This Contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress, or any statute enacted by the Congress, which may affect the provisions, terms, or funding of this Contract in any manner.

- B. Hatch Act

Contractor agrees to comply with the provisions of the Hatch Act (Title 5 USC, Sections 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

- C. No Unlawful Use or Unlawful Use Messages Regarding Drugs

Contractor agrees that information produced through these funds, and which pertains to drugs and alcohol-related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of a drug or alcohol-related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol (HSC Section 11999-11999.3). By signing this Contract, Contractor agrees that it will enforce, and will require its subcontractors to enforce, these requirements.

- D. Noncompliance with Reporting Requirements

Contractor agrees that DHCS has the right to withhold payments until Contractor has submitted any required data and reports to DHCS, as identified in Exhibit A, Attachment I, Part III - Reporting Requirements, or as identified in Document 1F(a), Reporting Requirements Matrix for Counties.

- E. Limitation on Use of Funds for Promotion of Legalization of Controlled Substances

None of the funds made available through this Contract may be used for any activity that promotes the legalization of any drug or other substance included in Schedule I of Section 202 of the Controlled Substances Act (21 USC 812).

**Exhibit A, Attachment I A2
Program Specifications**

F. Debarment and Suspension

Contractor shall not subcontract with or employ any party listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp. p. 189) and 12689 (3 CFR part 1989., p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

The Contractor shall advise all subcontractors of their obligation to comply with applicable federal debarment and suspension regulations, in addition to the requirements set forth in 42 CFR Part 1001.

If a Contractor subcontracts or employs an excluded party DHCS has the right to withhold payments, disallow costs, or issue a CAP, as appropriate, pursuant to HSC Code 11817.8(h).

G. Restriction on Distribution of Sterile Needles

No SABG funds made available through this Contract shall be used to carry out any program that includes the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug unless DHCS chooses to implement a demonstration syringe services program for injecting drug users.

H. Health Insurance Portability and Accountability Act (HIPAA) of 1996

All work performed under this Contract is subject to HIPAA, Contractor shall perform the work in compliance with all applicable provisions of HIPAA. As identified in Exhibit F, DHCS and County shall cooperate to assure mutual agreement as to those transactions between them, to which this provision applies. Refer to Exhibit F for additional information.

1. Trading Partner Requirements

- a) No Changes. Contractor hereby agrees that for the personal health information (Information), it will not change any definition, data condition or use of a data element or segment as proscribed in the Federal Health and Human Services (HHS) Transaction Standard Regulation (45 CFR 162.915 (a)).
- b) No Additions. Contractor hereby agrees that for the Information, it will not add any data elements or segments to the maximum data set as proscribed in the HHS Transaction Standard Regulation (45 CFR 162.915 (b)).

**Exhibit A, Attachment I A2
Program Specifications**

- c) No Unauthorized Uses. Contractor hereby agrees that for the Information, it will not use any code or data elements that either are marked “not used” in the HHS Transaction’s Implementation specification or are not in the HHS Transaction Standard’s implementation specifications (45 CFR 162.915 (c)).
- d) No Changes to Meaning or Intent. Contractor hereby agrees that for the Information, it will not change the meaning or intent of any of the HHS Transaction Standard’s implementation specification (45 CFR 162.915 (d)).

2. Concurrence for Test Modifications to HHS Transaction Standards

Contractor agrees and understands that there exists the possibility that DHCS or others may request an extension from the uses of a standard in the HHS Transaction Standards. If this occurs, Contractor agrees that it will participate in such test modifications.

3. Adequate Testing

Contractor is responsible to adequately test all business rules appropriate to their types and specialties. If the Contractor is acting as a clearinghouse for enrolled providers, Contractor has obligations to adequately test all business rules appropriate to each and every provider type and specialty for which they provide clearinghouse services.

4. Deficiencies

Contractor agrees to correct transactions, errors, or deficiencies identified by DHCS, and transactions errors or deficiencies identified by an enrolled provider if the Contractor is acting as a clearinghouse for that provider. When County is a clearinghouse, Contractor agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to enrolled providers for which they provide clearinghouse services.

5. Code Set Retention

Both parties understand and agree to keep open code sets being processed or used in this Contract for at least the current billing period or any appeal period, whichever is longer.

6. Data Transmission Log

Both parties shall establish and maintain a Data Transmission Log which shall record any and all Data Transmissions taking place between the Parties during the term of this Contract. Each party will take necessary and reasonable steps to

**Exhibit A, Attachment I A2
Program Specifications**

ensure that such Data Transmission Logs constitute a current, accurate, complete, and unaltered record of any and all Data Transmissions between the parties, and shall be retained by each Party for no less than twenty-four (24) months following the date of the Data Transmission. The Data Transmission Log may be maintained on computer media or other suitable means provided that, if it is necessary to do so, the information contained in the Data Transmission Log may be retrieved in a timely manner and presented in readable form.

I. Nondiscrimination and Institutional Safeguards for Religious Providers

Contractor shall establish such processes and procedures as necessary to comply with the provisions of Title 42, USC, Section 300x-65 and Title 42, CFR, Part 54, (Reference Document 1B).

J. Counselor Certification

Any counselor or registrant providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in a DHCS licensed or certified program is required to be registered or certified as defined in Title 9, CCR, Division 4, Chapter 8, (Document 3H).

K. Cultural and Linguistic Proficiency

To ensure equal access to quality care by diverse populations, each service provider receiving funds from this Contract shall adopt the Federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards (Document 3V).

L. Intravenous Drug Use (IVDU) Treatment

Contractor shall ensure that individuals in need of IVDU treatment shall be encouraged to undergo AOD treatment (42 USC 300x-23 (45 CFR 96.126(e)).

M. Tuberculosis Treatment

Contractor shall ensure the following related to Tuberculosis (TB):

1. Routinely make available TB services to each individual receiving treatment for AOD use and/or abuse.
2. Reduce barriers to patients' accepting TB treatment.
3. Develop strategies to improve follow-up monitoring, particularly after patients leave treatment, by disseminating information through educational bulletins and technical assistance.

**Exhibit A, Attachment I A2
Program Specifications**

N. Trafficking Victims Protection Act of 2000

Contractor and its subcontractors that provide services covered by this Contract shall comply with the Trafficking Victims Protection Act of 2000 (22 United States Code (USC) 7104(g)) as amended by section 1702 of Pub. L. 112-239.

O. Tribal Communities and Organizations

Contractor shall regularly assess (e.g. review population information available through Census, compare to information obtained in the California Outcome Measurement System for Treatment (CalOMS-Tx) to determine whether the population is being reached, survey Tribal representatives for insight in potential barriers), the substance use service needs of the American Indian/Alaskan Native (AI/AN) population within the County geographic area, and shall engage in regular and meaningful consultation and collaboration with elected officials of the tribe, Rancheria, or their designee for the purpose of identifying issues/barriers to service delivery and improvement of the quality, effectiveness, and accessibility of services available to AI/NA communities within the County.

P. Participation of County Behavioral Health Director's Association of California.

The County AOD Program Administrator shall participate and represent the County in meetings of the County Behavioral Health Director's Association of California for the purposes of representing the counties in their relationship with DHCS with respect to policies, standards, and administration for AOD abuse services.

The County AOD Program Administrator shall attend any special meetings called by the Director of DHCS. Participation and representation shall also be provided by the County Behavioral Health Director's Association of California.

Q. Youth Treatment Guidelines

Contractor must comply with the guidelines in Document 1V, incorporated by this reference, "Youth Treatment Guidelines," in developing and implementing youth treatment programs funded under this Exhibit, until new Youth Treatment Guidelines are established and adopted. No formal amendment of this contract is required for new guidelines to be incorporated into this Contract.

R. Perinatal Practice Guidelines

Contractor must comply with the perinatal program requirements as outlined in the Perinatal Practice Guidelines. The Perinatal Practice Guidelines are attached to this contract as Document 1G, incorporated by reference. The Contractor must comply with

**Exhibit A, Attachment I A2
Program Specifications**

the current version of these guidelines until new Perinatal Practice Guidelines are established and adopted. The incorporation of any new Perinatal Practice Guidelines into this Contract shall not require a formal amendment.

Contractor receiving SABG funds must adhere to the Perinatal Practice Guidelines, regardless of whether the Contractor exchanges perinatal funds for additional discretionary funds.

S. Byrd Anti-Lobbying Amendment (31 USC 1352)

Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Contractor shall also disclose to DHCS any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

T. Nondiscrimination in Employment and Services

By signing this Contract, Contractor certifies that under the laws of the United States and the State of California, incorporated into this Contract by reference and made a part hereof as if set forth in full, Contractor will not unlawfully discriminate against any person.

U. Federal Law Requirements:

1. Title VI of the Civil Rights Act of 1964, Section 2000d, as amended, prohibiting discrimination based on race, color, or national origin in federally-funded programs.
2. Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.) prohibiting discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing.
3. Age Discrimination Act of 1975 (45 CFR Part 90), as amended 42 USC Sections 6101 – 6107), which prohibits discrimination on the basis of age.
4. Age Discrimination in Employment Act (29 CFR Part 1625).
5. Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.
6. Title II of the Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities.

**Exhibit A, Attachment I A2
Program Specifications**

7. Title III of the Americans with Disabilities Act (28 CFR Part 36) regarding access.
8. Section 504 of the Rehabilitation Act of 1973, as amended (29 USC Section 794), prohibiting discrimination on the basis of individuals with disabilities.
9. Executive Order 11246 (42 USC 2000(e) et seq. and 41 CFR Part 60) regarding nondiscrimination in employment under federal contracts and construction contracts greater than \$10,000 funded by federal financial assistance.
10. Executive Order 13166 (67 FR 41455) to improve access to federal services for those with limited English proficiency.
11. The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse.
12. Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR Part 2, Subparts A – E).

V. State Law Requirements:

1. Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (2 CCR 7285.0 et seq.).
2. Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135.
3. Title 9, Division 4, Chapter 8 of the CCR, commencing with Section 13000.
4. No state or federal funds shall be used by the Contractor or its subcontractors for sectarian worship, instruction, or proselytization. No state funds shall be used by the Contractor or its subcontractors to provide direct, immediate, or substantial support to any religious activity.
5. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for DHCS to withhold payments under this Contract or terminate all, or any type, of funding provided hereunder.

W. Additional Contract Restrictions

1. This Contract is subject to any additional restrictions, limitations, or conditions enacted by the federal or state governments that affect the provisions, terms, or funding of this Contract in any manner.

**Exhibit A, Attachment I A2
Program Specifications**

X. Information Access for Individuals with Limited English Proficiency

1. Contractor shall comply with all applicable provisions of the Dymally-Alatorre Bilingual Services Act (Government Code sections 7290-7299.8) regarding access to materials that explain services available to the public as well as providing language interpretation services.
2. Contractor shall comply with the applicable provisions of Section 1557 of the Affordable Care Act (45 CFR Part 92), including, but not limited to, 45 CFR 92.201, when providing access to: (a) materials explaining services available to the public, (b) language assistance, (c) language interpreter and translation services, and (d) video remote language interpreting services.

Y. Subcontract Provisions

Contractor shall include all of the foregoing Part II general provisions in all of its subcontracts.

Part III – Reporting Requirements

Contractor agrees that DHCS has the right to withhold payments until Contractor has submitted any required data and reports to DHCS, as identified in this Exhibit A, Attachment I or as identified in Document 1F (a), Reporting Requirement Matrix for Counties.

A. The Contractor shall complete the following:

1. Quarterly Federal Financial Management Report (QFFMR)
 - a) The Contractor shall submit the QFFMR Form 5089 located: http://www.dhcs.ca.gov/provgovpart/Pages/SUD_Forms.aspx. The Contractor shall submit the QFFMR describing the preceding quarter's SABG expenditure by March 1, June 1, September 1, and December 1 of each year.
2. SABG Quarterly Ledger Detail
 - a) The Contractor shall submit Form 5117 located: http://www.dhcs.ca.gov/provgovpart/Pages/SUD_Forms.aspx. This form shall serve as backup detail for the QFFMR. The Contractor shall submit Form 5117 by March 1, June 1, September 1, and December 1 of each year.

**Exhibit A, Attachment I A2
Program Specifications**

3. Budget Plan Report

- a) The Contractor shall submit Form 5116 located:
http://www.dhcs.ca.gov/provgovpart/Pages/SUD_Forms.aspx. This form shall set forth the budget for all funds from all sources that the Contractor intends to use to provide alcohol and other drug abuse services. The Contractor shall submit the form annually by May 15.

B. California Outcomes Measurement System for Treatment (CalOMS-Tx)

The CalOMS-Tx business rules and requirements are:

1. Contractor shall internally comply with the CalOMS-Tx data collection system requirements for submission of CalOMS-Tx data or contract with a software vendor that does. If applicable, a Business Associate Agreement (BAA) shall be established between the Contractor and the software vendor, and the BAA shall state that DHCS is allowed to return the processed CalOMS-Tx data to the vendor that supplied the data to DHCS.
2. Contractor shall conduct information technology (IT) systems testing and pass State certification testing before commencing submission of CalOMS-Tx data. If the Contractor subcontracts with a vendor for IT services, Contractor is responsible for ensuring that the subcontracted IT system is tested and certified by the DHCS prior to submitting CalOMS-Tx data. If Contractor changes or modifies the CalOMS-Tx IT system, then Contractor shall re-test and pass state re-certification prior to submitting data from the new or modified system.
3. Electronic submission of CalOMS-Tx data shall be submitted by Contractor within 45 days from the end of the last day of the report month.
4. Contractor shall comply with data collection and reporting requirements established by the DHCS CalOMS-Tx Data Collection Guide (Document 3J) and all former Department of Alcohol and Drug Programs Bulletins and DHCS Information Notices relevant to CalOMS-Tx data collection.
5. Contractor shall submit CalOMS-Tx admission, discharge, annual update, resubmissions of records containing errors or in need of correction, and "provider no activity" report records in an electronic format approved by DHCS.
6. Contractor shall comply with the CalOMS-Tx Data Compliance Standards established by DHCS identified in Document 3S for reporting data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method.

**Exhibit A, Attachment I A2
Program Specifications**

7. Contractor shall participate in CalOMS-Tx informational meetings, trainings, and conference calls. Contractor staff responsible for CalOMS-Tx data entry must have sufficient knowledge of the CalOMS-Tx Data Quality Standards. All new CalOMS-Tx users, whether employed by the Contractor or its subcontractors, shall participate in CalOMS-Tx trainings prior to inputting data into the system.
8. Contractor shall implement and maintain a system that complies with the CalOMS-Tx data collection system requirement for electronic submission of CalOMS-Tx data.
9. Contractor shall meet the requirements as identified in Exhibit F, Privacy and Information Security Provisions, ~~and Exhibit F, Attachment I – Social Security Administration Agreement.~~

C. Primary Prevention Substance Use Disorder Data Service

The Primary Prevention Substance Use Disorder Data Service (PPSDS) business rules and requirements are:

1. Contractors and/or subcontractors receiving SABG Primary Prevention Set-Aside funding shall input planning, service/activity and evaluation data into the service. When submitting data, Contractor shall comply with the PPSDS Data Quality Standards
(http://www.dhcs.ca.gov/provgovpart/Documents/Substance%20Use%20Disorder-PPFD/PPSDS_Data_Quality_Standards.pdf).
2. Contractor shall report services/activities by the date of occurrence on an ongoing basis throughout each month. Contractor shall submit all data for each month no later than the 10th day of the following month.
3. Contractor shall review all data input into the prevention data collection service on a quarterly basis. Contractor shall verify that the data meets the PPSDS Data Quality Standards. Certification is due by the last day of the month following the end of the quarter.
4. If Contractor cannot meet the established due dates, a written request for an extension shall be submitted to DHCS Prevention Analyst 10 calendar days prior to the due date and must identify the proposed new due date. Note that extensions will only be granted due to system or service failure or other extraordinary circumstances.
5. In order to ensure that all persons responsible for prevention data entry have sufficient knowledge of the PPSDS Data Quality Standards, all new users of the service, whether employed by the Contractor or its subcontractors, shall participate in PPSDS training prior to inputting any data.

**Exhibit A, Attachment I A2
Program Specifications**

D. System Failures and Contractor Obligations Regarding CalOMS-Tx and PPSDS Reporting Requirements

1. If the Contractor experiences system or service failure or other extraordinary circumstances of CalOMS Tx that affects its ability to submit timely CalOMS-Tx data. Contractor shall report the problem in writing by secure, encrypted e-mail to DHCS at: ITServiceDesk@dhcs.ca.gov.
2. If the Contractor is unable to submit CalOMS Tx data due to system or service failure or other extraordinary circumstance, a written notice shall be submitted prior to the data submission deadline at: SUDCalomssupport@dhcs.ca.gov. The written notice shall include a remediation plan that is subject to review and approval by DHCS. A grace period of up to 60 days may be granted, at the State's sole discretion, for the Contractor to resolve the problem before SABG payments are withheld.
3. If the Contractor experiences system or service failure or other extraordinary circumstances of PPSDS that affects its ability to submit timely PPSDS data, the Contractor shall report the problem to the PPSDS Help Desk at (916) 552-8933 or PrimaryPvSUDData@dhcs.ca.gov.
4. If the Contractor is unable to submit PPSDS data due to system or service failure or other extraordinary circumstance, a written notice shall be submitted to the assigned DHCS Prevention Analyst prior to the data submission deadline and must identify the proposed new due date.
5. If DHCS experiences system or service failure, no penalties will be assessed to the Contractor for late data submission.
6. Contractor shall comply with the treatment and prevention data quality standards established by DHCS. Failure to meet these standards on an ongoing basis may result in withholding SABG funds.
7. If the Contractor submits data after the established deadlines, due to a delay or problem, Contractor is still responsible for collecting and reporting data from time of delay or problem.

E. Drug and Alcohol Treatment Access Report (DATAR)

The DATAR business rules and requirements are:

1. The Contractor shall be responsible for ensuring that the Contractor-operated treatment services and all treatment providers, with whom Contractor makes a

**Exhibit A, Attachment I A2
Program Specifications**

contract or otherwise pays for the services, submit a monthly DATAR report in an electronic copy format as provided by DHCS.

2. The Contractor shall ensure that treatment providers who reach or exceed 90 percent of their dedicated capacity, report this information to DHCSOWPS@dhcs.ca.gov within seven days of reaching capacity.
3. The Contractor shall ensure that all DATAR reports are submitted by either Contractor-operated treatment services and by each subcontracted treatment provider to DHCS by the 10th of the month following the report activity month.
4. The Contractor shall ensure that all applicable providers are enrolled in DHCS' web-based DATARWeb program for submission of data, accessible on the DHCS website when executing the subcontract.
5. If the Contractor or its subcontractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit a monthly DATAR report, and/or to meet data compliance requirements, the Contractor shall report the problem in writing by secure, encrypted e-mail to DHCS at: ITServiceDesk@dhcs.ca.gov before the established data submission deadlines. The written notice shall include a CAP that is subject to review and approval by DHCS. A grace period of up to 60 days may be granted, at DHCS' sole discretion, for the Contractor to resolve the problem before SABG payments are withheld pursuant to 45 CFR Section 75.371 and HSC Section 11817.8. (See Exhibit B, Part II, Section (2)(A)(6)).
6. If DHCS experiences system or service failure, no penalties will be assessed to Contractor for late data submission.
7. The Contractor shall be considered compliant if a minimum of 95% of required DATAR reports from the Contractor's treatment providers are received by the due date.

F. Charitable Choice

Contractor shall document the total number of referrals necessitated by religious objection to other alternative SUD providers. The Contractor shall annually submit this information to DHCS' Program Support and Grants Management Branch by e-mail at CharitableChoice@dhcs.ca.gov by October 1st. The annual submission shall contain all substantive information required by DHCS and be formatted in a manner prescribed by DHCS.

G. Master Provider File (MPF) Documentation Requirements

The Department shall generate a County MPF Report for the Contractor on the last day

**Exhibit A, Attachment I A2
Program Specifications**

of each month and shall send the report to the Contractor. The Contractor shall review the County MPF Report and confirm whether the information, including the contract

status and identification information for each provider listed in the County MPF Report, is accurate and up to date.

If any information contained in the County MPF Report is inaccurate or has changed, Contractor shall send a written notification to the MPF mailbox at: DHCSMPF@dhcs.ca.gov within five business days of the Department's issuance of the County MPF report. If a Non-DMC provider's information is not accurate or has changed, the Contractor shall submit the "Existing Provider Information Update/Change Form" to the MPF mailbox at: DHCSMPF@dhcs.ca.gov within five business days of the Department's issuance of the County MPF report. If the contract status has changed for either a DMC or Non-DMC provider, the Contractor shall submit the "Existing Provider Information Update/Change Form" to the MPF mailbox at: DHCSMPF@dhcs.ca.gov within five business days of the Department's issuance of the County MPF report. Specific types of changes and/or inaccuracies include, but are not limited to, a change in an existing provider's contract status with the County, a change in scope of services, remodeling of the provider's facility, relocation or facility expansion, or closing of a facility site.

When establishing a new subcontractor relationship, the Contractor shall submit the "New Provider Information Form (Non-DMC) Form" to request a new record be created in the MPF database to identify the new subcontractor. A new CalOMS Data Reporting Number (DRN) will be assigned to the facility. The Contractor's obligation to review the accuracy of the records of their sub-contracted provider(s) extends to all county and out-of-county SUD providers, regardless of the funding source or DHCS licensing and/or certification status.

All SUD Provider Information forms can be requested from the MPF Team through the electronic mail address: DHCSMPF@dhcs.ca.gov

H. Failure to meet required reporting requirements shall result in:

1. A Notice of Deficiency (Deficiencies) issued to Contractor regarding specified providers with a deadline to submit the required data and a request for a CAP to ensure timely reporting in the future. DHCS will approve or reject the CAP or request revisions to the CAP, which shall be resubmitted to the DHCS within 30 days.
2. If the Contractor has not ensured compliance with the data submission or CAP request within the designated timeline, then DHCS shall withhold funds until all data is submitted. DHCS shall inform the Contractor when funds will be withheld.

**Exhibit A, Attachment I A2
Program Specifications**

Part IV – Definitions

Section 1 - General Definitions

The words and terms of this Contract are intended to have their usual meanings unless a particular or more limited meaning is associated with their usage pursuant to Division 10.5 of HSC, Section 11750 et seq., and Title 9, CCR, Section 9000 et seq.

- A. **"Available Capacity"** means the total number of units of service (bed days, hours, slots, etc.) that a Contractor actually makes available in the current fiscal year.
- B. **"Contractor"** means the county identified in the Standard Agreement or the department authorized by the County Board of Supervisors to administer substance use disorder programs.
- C. **"Corrective Action Plan (CAP)"** means the written plan of action document which the Contractor or its subcontracted service provider develops and submits to DHCS to address or correct a deficiency or process that is non-compliant with laws, regulations or standards.
- D. **"County"** means the county in which the Contractor physically provides covered substance use treatment services.
- E. **"Days"** means calendar days, unless otherwise specified.
- F. **"Dedicated Capacity"** means the historically calculated service capacity, by modality, adjusted for the projected expansion or reduction in services, which the Contractor agrees to make available to provide SABG services to persons eligible for Contractor's services.
- G. **"Final Allocation"** means the amount of funds identified in the last allocation letter issued by DHCS for the current fiscal year.
- H. **"Final Settlement"** means permanent settlement of the Contractor's actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three years of the date the year-end cost settlement report was accepted for interim settlement by DHCS. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.
- I. **"Interim Settlement"** means temporary settlement of actual allowable costs or expenditures reflected in the Contractor's year-end cost settlement report.
- J. **"Key points of contact"** means common points of access to substance use treatment services from the county, including but not limited to the county's beneficiary problem

**Exhibit A, Attachment I A2
Program Specifications**

resolution process, county owned or operated or contract hospitals, and any other central access locations established by the county.

- K. **"Maximum Payable"** means the encumbered amount reflected on the Standard Agreement of this Contract and supported by Exhibit B, Attachment I.
- L. **"Modality"** means those necessary overall general service activities to provide substance use disorder services as described in Division 10.5 of the HSC.
- M. **"SABG Amount"** means the contracted amount of SABG funds for services agreed to by DHCS and the Contractor.
- N. **"Performance"** means providing the dedicated capacity in accordance with Exhibit B, Attachment I, and abiding by the terms of this Exhibit, including all applicable state and federal statutes, regulations, and standards, including Alcohol and/or Other Drug Certification Standards (Document 1P), in expending funds for the provision of substance use disorder services hereunder.
- O. **"Preliminary Settlement"** means the settlement of only SABG funding for counties that do include DMC funding.
- P. **"Revenue"** means Contractor's income from sources other than DHCS allocation.
- Q. **"Room and board"** means payment of the cost of the lodging (or a room) and food.
- R. **"Service Area"** means the geographical area under Contractor's jurisdiction.
- S. **"Service Element"** is the specific type of service performed within the more general service modalities. A list of the service modalities and service elements and service elements codes is incorporated into this Contract as Document 1H(a) "Service Code Descriptions".
- T. **"State"** means the Department of Health Care Services or DHCS.
- U. **"Sub-recipient Pre-Award Risk Assessment"** means the Contractor's responsibility to review the merit and risk associated with all potential grant recipients prior to making an award as described in 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, commonly referred to as the Uniform Guidance.
- V. **"Utilization"** means the total actual units of service used by clients and participants further defined as the count of persons with initial admissions and subsequent admission(s) to an episode of care.

**Exhibit A, Attachment I A2
Program Specifications**

DOCUMENTS INCORPORATED BY REFERENCE

~~The following documents are hereby incorporated by reference into the County contract though they may not be physically attached to the contract but will be issued in a CD under separate cover:~~

All SABG documents incorporated by reference into this contract may not be physically attached to the contract, but can be found at DHCS' website:

<https://www.dhcs.ca.gov/provgovpart/Pages/SAPT-Block-Grant-Contracts.aspx>

Document 1A: Title 45, Code of Federal Regulations 96, Subparts C and L,
Substance Abuse Prevention and Treatment Block Grant
Requirements

<https://www.gpo.gov/fdsys/granule/CFR-2005-title45-vol1/CFR-2005-title45-vol1-part96>

Document 1B: Title 42, Code of Federal Regulations, Charitable Choice Regulations

https://www.law.cornell.edu/cfr/text/42/part_54

Document 1C: Driving-Under-the-Influence Program Requirements

Document 1F(a): Reporting Requirement Matrix - County Submission Requirements for
the Department of Health Care Services

Document 1G: Perinatal Practice Guidelines FY 2018-19

https://www.dhcs.ca.gov/individuals/Documents/Perinatal_Practice_Guidelines_FY1819.pdf

Document 1K: Drug and Alcohol Treatment Access Report (DATAR) User Manual

<http://www.dhcs.ca.gov/provgovpart/Pages/DATAR.aspx>

Document 1P: Alcohol and/or Other Drug Program Certification Standards
(May 1, 2017)

http://www.dhcs.ca.gov/Documents/DHCS_AOD_Certification_Standards.pdf

Document 1V: Youth Treatment Guidelines

http://www.dhcs.ca.gov/individuals/Documents/Youth_Treatment_Guidelines.pdf

**Exhibit A, Attachment I A2
Program Specifications**

Document 2F(b):	Minimum Quality Drug Treatment Standards for SABG
Document 2P:	County Certification - Cost Report Year-End Claim For Reimbursement
Document 3G:	California Code of Regulations, Title 9 - Rehabilitation and Developmental Services, Division 4 - Department of Alcohol and Drug Programs, Chapter 4 - Narcotic Treatment Programs https://govt.westlaw.com/calregs/Search/Index
Document 3H:	California Code of Regulations, Title 9 - Rehabilitation and Developmental Services, Division 4 - Department of Alcohol and Drug Programs, Chapter 8 - Certification of Alcohol and Other Drug Counselors https://govt.westlaw.com/calregs/Search/Index
Document 3J:	CalOMS Treatment Data Collection Guide http://www.dhcs.ca.gov/provgovpart/Documents/CalOMS_Tx_Data_Collection_Guide_JAN%202014.pdf
Document 3S:	CalOMS Treatment Data Compliance Standards http://www.dhcs.ca.gov/provgovpart/Documents/CalOMS_data_cmpliance%20standards%202014.pdf
Document 3T:	Non-Drug Medi-Cal and Drug Medi-Cal DHCS Local Assistance Funding Matrix
Document 3T(a):	SAPT Authorized and Restricted Expenditures Information (April 2017)
Document 3V :	Culturally and Linguistically Appropriate Services (CLAS) National Standards https://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53
Document 5A :	Confidentiality Agreement

Exhibit B A2
Budget Detail and Payment Provisions

Part I – General Fiscal Provisions

Section 1 – General Fiscal Provisions

A. Fiscal Provisions

For services satisfactorily rendered, and upon receipt and approval of documentation as identified in Exhibit A, Attachment I, Part III, the Department of Health Care Services (DHCS) agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates and/or allowable costs specified herein.

B. Funding Authorization

Contractor shall bear the financial risk in providing any substance use disorder services covered by this Contract.

C. Availability of Funds

It is understood that, for the mutual benefit of both parties, this Contract may have been written before ascertaining the availability of congressional appropriation of funds in order to avoid program and fiscal delays that would occur if this Contract were not executed until after that determination. If so, DHCS may amend the amount of funding provided for in this Contract based on the actual congressional appropriation.

D. Budget Contingency Clause

It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Contract does not appropriate sufficient funds for the program, this Contract 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 Contract and Contractor shall not be obligated to perform any provisions of this Contract.

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

E. Expense Allowability / Fiscal Documentation

1. Invoices, received from a Contractor and accepted and/or submitted for payment by DHCS, shall not be deemed evidence of allowable agreement costs.

Exhibit B A2
Budget Detail and Payment Provisions

2. Contractor shall maintain for review, audit, and supply to DHCS upon request, adequate documentation of all expenses claimed pursuant to this Contract to permit a determination of expense allowability.
3. If the allowability or appropriateness of an expense cannot be determined by DHCS because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles, and generally accepted governmental audit standards, all questionable costs may be disallowed and payment may be withheld by DHCS. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.
4. Costs and/or expenses deemed unallowable shall not be reimbursed or, if mistakenly reimbursed, those costs and/or expenses shall be subject to recovery by DHCS pursuant to HSC Code 11817.8(e).

F. Maintenance of Effort for the Substance Abuse Prevention and Treatment Block Grant

1. Notwithstanding any other provision in this Contract, the Director of DHCS may reduce federal funding allocations, on a dollar-for-dollar basis, to a county that has reduced or anticipates reduced expenditures in a way that would result in a decrease in California's receipt of Federal Substance Abuse Prevention and Treatment Block Grant (SABG) funds (42 United States Code (U.S.C.) Sect 300x-30).
2. Prior to making any reductions pursuant to this subdivision, the Director shall notify all counties that county underspending will reduce the Federal SABG Maintenance Of Effort (MOE). Upon receipt of notification, a county may submit a revision to the county budget initially submitted pursuant to HSC Section 11798 subdivision(a) in an effort to maintain the statewide SABG MOE.
3. Pursuant to HSC Section 11814(d)(3), a county shall notify DHCS in writing of proposed local changes to the county's expenditure of funds. DHCS shall review and may approve the proposed local changes depending on the level of expenditures needed to maintain DHCS wide SABG MOE.

G. SABG Primary Prevention Services Expenditure Requirement

Pursuant to Title 42, U.S.C. Section 300x-22(a), the Contractor shall expend a minimum of 20 percent of SABG funds for primary prevention services. The Contractor shall expend primary prevention funds for strategies, programs, and services directed at individuals who have not been determined to require treatment for a substance use disorder. These programs shall educate and counsel individuals on substance abuse and provide for activities to reduce the risk of such abuse by the individuals. The Contractor shall give priority to programs for populations that are at risk of developing a

Exhibit B A2
Budget Detail and Payment Provisions

pattern of substance abuse and ensure that those programs develop community-based prevention strategies.

H. SABG Women Services Expenditure Requirement

Pursuant to Title 42, U.S.C. 5 Section 300x-22(b) and 45 Code of Federal Regulations (CFR) 96.124(c), for each state fiscal year (SFY) the Contractor shall expend an amount of SABG funds not less than the amount expended by the Contractor in fiscal year 1994 on perinatal services, pregnant women, and women with dependent children. The Contractor shall expend that percentage either by establishing new programs or expanding the capacity of existing programs in the manner described in Exhibit G of the annual SABG allocation, "County Share of SABG Women Services Expenditure Requirements" (found at http://www.dhcs.ca.gov/formsandpubs/Documents/Info%20Notice%202015/11-Exhibit_G.pdf).

Section 2 – General Fiscal Provisions – SABG

A. Revenue Collection

Contractor shall conform to revenue collection requirements in HSC Sections 11841, by raising revenues in addition to the funds allocated by DHCS. These revenues include, but are not limited to, fees for services, private contributions, grants, or other governmental funds. These revenues shall be used in support of additional alcohol and other drug services or facilities. Each alcohol and drug program shall set and collect client fees based on the client's ability to pay. The fee requirement shall not apply to prevention and early intervention services. **Contractor shall not collect fees from any beneficiary when Medi-Cal is billed for the same service.** Contractor shall identify in its annual cost report the types and amounts of revenues collected.

B. Cost Efficiencies

It is intended that the cost to the Contractor in maintaining the dedicated capacity and units of service shall be met by the SABG funds allocated to the Contractor and other Contractor or subcontractor revenues. Amounts awarded pursuant to Exhibit A, Attachment I, Part I, shall not be used for services where payment has been made, or can reasonably be expected to be made under any other state or federal compensation or benefits program, or where services can be paid for from revenues.

Exhibit B A2
Budget Detail and Payment Provisions

Part II – Reimbursements

Section 1 - General Reimbursement

A. 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.

B. Amounts Payable

1. The amount payable under this Contract shall not exceed the amount identified on the State of California Standard Agreement form STD 213 DHCS.
2. 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.
3. The funds identified for the fiscal years covered by this Section, within this Exhibit, are subject to change depending on the availability and amount of funds appropriated by the Legislature and the Federal Government. The amount of funds available for expenditure by the Contractor shall be limited to the amount identified in the final allocations issued by DHCS for that fiscal year or the SABG amount, whichever is less. Changes to allocated funds will require a written amendment to the Contract.
4. For each fiscal year, DHCS may settle costs for services based on the year-end cost settlement report. The year-end cost settlement shall be the final amendment for the state fiscal year.

Section 2 - Substance Abuse Prevention and Treatment Block Grant (SABG)

A. Amounts Payable for SABG

1. DHCS shall reimburse the Contractor in arrears based upon quarterly invoicing.
2. Quarterly Invoicing-Quarterly Federal Financial Management Report (QFFMR)
 - a) The Contractor shall complete QFFMRs as prescribed in Exhibit A, Attachment I, Part III, Section A, Subsection 1. These quarterly QFFMRs serve as expenditure reports and invoices for payment. The Contractor shall incur expenditures before receiving payment from its allocation.

Exhibit B A2
Budget Detail and Payment Provisions

- b) The Contractor shall submit the QFFMR describing the preceding quarter's SABG expenditure by March 1, June 1, September 1, and December 1 of each year.
- c) DHCS shall review QFFMR reports to ensure that costs are reasonable and do not exceed the Contractor's allocation. Inaccuracies in the report shall be resolved by the Contractor prior to receiving payment.
- 3. Pursuant to 45 CFR Section 75.371 and HSC Section 11817.8, DHCS may withhold SABG payments if the Contractor fails to:
 - a) Submit any forms and reports to DHCS by each due date, including but not limited to, forms required pursuant to Exhibit A, Attachment I, Part III.
 - b) Submit a Contract amendment within 90 days from issuance from DHCS to the Contractor.
 - c) Submit monitoring reports and attest to the completion of CAPs or services provided pursuant to this Contract.
 - d) Monitor its subcontractors pursuant to Exhibit A, Attachment I, Part I.
- 4. In the event DHCS withholds SABG payment, the Contractor's payment shall commence with the next scheduled payment following DHCS' receipt and acceptance of complete and accurate reports, data, or executed Contract. The payment shall include any funds withheld pursuant to Section 2(A)(5).
- 5. Adjustments may be made to the total Contract amount and funds may be withheld from payments otherwise due to the Contractor hereunder, for nonperformance to the extent that nonperformance involves fraud, abuse, or failure to achieve the objectives of the provisions of Exhibit A, Attachment I, Part I.

B. Payment Provisions

For each fiscal year, the total amount payable by DHCS to the Contractor for services provided under Exhibit A, Attachment I, Part I, shall not exceed the encumbered amount. The funds identified for the fiscal years covered by Exhibit A, Attachment I, Part I, are subject to change depending on the availability and amount of funds appropriated by the Legislature and the Federal Government. Changes to encumbered funds require a written amendment to the Contract. DHCS may settle costs for SABG services based on the year-end cost settlement report as the final amendment to the approved single state/county Contract.

- C. In the event of a Contract amendment, as required by the preceding paragraph, the Contractor shall submit to DHCS the information identified in Exhibit E, Section (1)(B).

Exhibit B A2
Budget Detail and Payment Provisions

To the extent the Contractor is notified of the State Budget Act allocation prior to the execution of the Contract, DHCS and the Contractor may agree to amend the Contract after the issuance of the first Budget Act allocation.

D. Accrual of Interest

Any interest accrued from state-allocated funds and retained by the Contractor shall be used for the same purpose as DHCS-allocated funds from which the interest was accrued.

E. Expenditure Period

SABG funds are allocated based upon the Federal Grant award period. These funds must be expended for activities authorized pursuant to 42 USC Sections 300x-21 through 300x-66, and Title 45 CFR 96.120 et seq., within the availability period of the grant award. Any SABG funds that have not been expended by the Contractor at the end of the expenditure period identified below shall be returned to DHCS for subsequent return to the Federal Government.

1. The expenditure period of the FFY 2015 award is October 1, 2014 through June 30, 2016.
2. The expenditure period of the FFY 2016 award is October 1, 2015 through June 30, 2017.
3. The expenditure period of the FFY 2017 award is October 1, 2016 through June 30, 2018.
4. The expenditure period of the FFY 2018 award is October 1, 2017 through June 30, 2019.
5. The expenditure period of the FFY 2019 award is October 1, 2018 through June 30, 2020.

F. Contractors receiving SABG funds shall comply with the financial management standards contained in 45 CFR Sections 75.302(b)(1) through (6), and 45 CFR Section 96.30.

G. Non-profit subcontractors receiving SABG funds shall comply with the financial management standards contained in 45 CFR Section 75.302(b)(1) through (4) and (b)(7), and 45 CFR Section 96.30.

H. Contractors receiving SABG funds shall track obligations and expenditures by individual SABG award, including, but not limited to, obligations and expenditures for

Exhibit B A2
Budget Detail and Payment Provisions

primary prevention, services to pregnant women and women with dependent children.
“Obligation” shall have the same meaning as used in 45 CFR Section 75.2.

I. Restrictions on the Use of SABG Funds

Contractor shall not use SABG funds provided by the Contract on the following activities:

1. Provide inpatient services.
2. Make cash payments to intended recipients of health services.
3. Purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment.
4. Satisfy any requirement for the expenditure of SABG funds as a condition for the receipt of federal funds.
5. Provide financial assistance to any entity other than a public or nonprofit private entity.
6. Pay the salary of an individual through a grant or other extramural mechanism at a rate in excess of level I of the Executive Salary Schedule for the award year: see http://grants.nih.gov/grants/policy/salcap_summary.htm.
7. Purchase treatment services in penal or correctional institutions of the State of California.
8. Supplant state funding of programs to prevent and treat substance abuse and related activities.
9. Carry out any program prohibited by 42 USC 300x-21 and 42 USC 300ee-5 such that none of the funds provided under this Act or an amendment made by this Act shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the United States Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for acquired immune deficiency syndrome.
10. Exception regarding inpatient hospital services:
 - a) ~~Medical necessity as precondition: With respect to compliance with the agreement made under this Exhibit, Part II, Section 2(I), a State may expend a grant under 42 USC 300x-21 to provide inpatient hospital services as treatment~~

Exhibit B A2
Budget Detail and Payment Provisions

~~for substance abuse only if it has been determined, in accordance with guidelines issued by the Secretary, that such treatment is a medical necessity for the individual involved, and that the individual cannot be effectively treated in a community-based, nonhospital, residential program of treatment.~~

- b) ~~Rate of payment: In the case of an individual for whom a grant under section 300x-21 of this title is expended to provide inpatient hospital services described in paragraph (a), a funding agreement for the grant for the State involved is that the daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community-based, non-hospital, residential programs of treatment for substance abuse.~~

a) Contractor may expend a grant for inpatient hospital-based substance abuse programs subject to the limitations of paragraph (I)(10)(b) of this section only when it has been determined by a physician that:

- i. The primary diagnosis of the individual is substance abuse, and the physician certifies this fact;**
- ii. The individual cannot be safely treated in a community-based, nonhospital, residential treatment program;**
- iii. The Service can reasonably be expected to improve an individual's condition or level of functioning;**
- iv. The hospital-based substance abuse program follows national standards of substance abuse professional practice; and**

b) In the case of an individual for whom a grant is expended to provide inpatient hospital services described above, the allowable expenditure shall conform to the following:

- i. The daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community-based, nonhospital, residential programs of treatment for substance abuse; and**
- ii. The grant may be expended for such services only to the extent that it is medically necessary, i.e., only for those days that the patient cannot be safely treated in a residential, community-based program.**

Exhibit B A2
Budget Detail and Payment Provisions

11. Waiver regarding construction of facilities:

- a) In general: The Secretary may provide to any State a waiver of the restriction established in 42 USC 300x–31, subsection (a)(1)(C), for the purpose of authorizing DHCS to expend a grant under section 42 USC 300x–21 for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition.
- b) Standard regarding need for waiver: The Secretary may approve a waiver under 42 USC 300x–31(c), only if DHCS demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available.
- c) Amount: In granting a waiver under 42 USC 300x–31(c), the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for residential treatment and a specified number of slots for outpatient treatment, based on reasonable estimates by DHCS of the costs of construction or rehabilitation. In considering waiver applications, the Secretary shall ensure that DHCS has carefully designed a program that will minimize the costs of additional beds.
- d) Matching funds: The Secretary may grant a waiver under 42 USC 300x–31 (c), only if DHCS agrees, with respect to the costs to be incurred by DHCS in carrying out the purpose of the waiver, to make available non-federal contributions in cash toward such costs in an amount equal to not less than \$1 for each \$1 of federal funds provided under 42 USC 300x–21.
- e) Date certain for acting upon request: The Secretary shall act upon a request for a waiver under 42 USC 300x–31 (c), not later than 120 days after the date on which the request is made.

12. Provide services reimbursable by Medi-Cal:

- a) Contractor shall not utilize SABG funds to pay for a service that is reimbursable by Medi-Cal.
- b) The Contractor may utilize SABG funds to pay for a service included in the California State Plan or the Drug Medi-Cal Organized Delivery System (DMC-ODS), but which is not reimbursable by Medi-Cal.
- c) If the Contractor utilizes SABG funds to pay for a service that is included in the California State Plan or the DMC-ODS, the Contractor shall maintain documentation sufficient to demonstrate that Medi-Cal reimbursement was not available.

Exhibit B A2
Budget Detail and Payment Provisions

Part III - Financial Audit Requirements

Section 1 - General Fiscal Audit Requirements

- A. In addition to the requirements identified below, the Contractor and its subcontractors are required to meet the audit requirements as delineated in Exhibit C, General Terms and Conditions, and Exhibit D(F), Special Terms and Conditions, of this Contract.
- B. All expenditures of county realignment funds, state and federal funds furnished to the Contractor and its subcontractors pursuant to this Contract are subject to audit by DHCS. Such audits shall consider and build upon external independent audits performed pursuant to audit requirements of 45 CFR, Part 75, Subpart F and/or any independent Contractor audits or reviews. Objectives of such audits may include, but are not limited to, the following:
 - 1. To determine whether units of service claimed/reported are properly documented by service records and accurately accumulated for claiming/reporting.
 - 2. To validate data reported by the Contractor for prospective contract negotiations.
 - 3. To provide technical assistance in addressing current year activities and providing recommendations on internal controls, accounting procedures, financial records, and compliance with laws and regulations.
 - 4. To determine the cost of services, net of related patient and participant fees, third party payments, and other related revenues and funds.
 - 5. To determine that expenditures are made in accordance with applicable state and federal laws and regulations and contract requirements.
 - 6. To determine the facts in relation to analysis of data, complaints, or allegations, which may be indicative of fraud, abuse, willful misrepresentation, or failure to achieve the Contract objectives.
- C. Unannounced visits to the Contractor and/or its subcontractors may be made at the discretion of DHCS.
- D. The refusal of the Contractor or its subcontractors to permit access to and inspection of electronic or print books and records, physical facilities, and/or refusal to permit interviews with employees, as described in this part constitutes an express and immediate material breach of this Contract and will be sufficient basis to terminate the Contract for cause or default.

Exhibit B A2
Budget Detail and Payment Provisions

- E. Reports of audits conducted by DHCS shall reflect all findings, recommendations, adjustments, and corrective actions as a result of its finding in any areas.

Section 2. SABG Financial Audits

- A. Contractor shall monitor the activities of all of its subcontractors to ensure that the SABG funds are used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the grant, and that performance goals are achieved.
- B. Contractor may use a variety of monitoring mechanisms, including limited scope audits, on-site visits, progress reports, financial reports, and review of documentation support requests for reimbursement, to meet the Contractor's monitoring objectives. Contractor may charge federal awards for the cost of these monitoring procedures if permitted under 45 CFR 75.425.
- C. Contractor shall submit to DHCS a copy of the procedures and any other monitoring mechanism used to monitor non-profit Subcontracts at the time of the County's annual desk review or site visit or within 60 days thereafter. Contractor shall state the frequency that non-profit Subcontracts are monitored.
- D. On-site visits focus on compliance and controls over compliance areas. The DHCS County Monitoring Unit analyst shall make site visits to the subcontractor location(s), and can use a variety of monitoring mechanisms to document compliance requirements. The Contractor shall follow-up on any findings and the corrective actions.
1. Contractor shall be responsible for any disallowance taken by the Federal Government, DHCS, or the California State Auditor, as a result of any audit exception that is related to the Contractor's responsibilities herein. Contractor shall not use funds administered by DHCS to repay one federal funding source with funds provided by another federal funding source, to repay federal funds with state funds, or to repay state funds with federal funds. DHCS shall invoice Contractor 60 days after issuing the final audit report or upon resolution of an audit appeal. Contractor agrees to develop and implement any CAP in a manner acceptable to DHCS in order to comply with recommendations contained in any audit report. Such CAP plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by DHCS within one year from the date of the plan.
- E. Contractors that conduct financial audits of subcontractors, other than a subcontractor whose funding consists entirely of non-Department funds, shall develop a process to resolve disputed financial findings and notify subcontractors of their appeal rights pursuant to that process. If any fiscal adjustments remain after the Contractor and subcontractor have exhausted the internal appeals process, any SABG funds outstanding shall be returned to DHCS. This section shall not apply to those grievances

Exhibit B A2
Budget Detail and Payment Provisions

or compliances arising from the financial findings of an audit or examination made by or on behalf of DHCS pursuant to Part III of this Exhibit.

- F. If the Contractor fails to comply with federal statutes, regulations, or the terms and conditions of the grant, DHCS may impose additional conditions on the subaward, including:
1. Requiring additional or more detailed financial reports.
 2. Requiring technical or management assistance.
 3. Establishing additional prior approvals.
- G. If DHCS determines that the Contractor's noncompliance cannot be remedied by imposing additional conditions, DHCS may take one or more of the following actions:
1. Temporarily withhold cash payment pending correction of the deficiency by the Contractor.
 2. Disallow all or part of the cost of the activity or action not in compliance.
 3. Wholly or partly suspend the award activities or terminate the Contractor's subaward.
 4. Recommend that the suspension or debarment proceedings be initiated by the federal awarding agency.
 5. Withhold further federal awards.
 6. Take other remedies that may be legally available.

Exhibit B A2
Budget Detail and Payment Provisions

Part IV – Records

Section 1 - General Provisions

A. Maintenance of Records

Contractor shall maintain sufficient books, records, documents, and other evidence necessary for DHCS to audit contract performance and contract compliance.

Contractor shall make these records available to SAMHSA, Inspectors General, the Comptroller General, DHCS, or any of their authorized representatives upon request, to evaluate the quality and quantity of services, accessibility and appropriateness of services, and to ensure fiscal accountability. Regardless of the location or ownership of such records, they shall be sufficient to determine if costs incurred by Contractor are reasonable, allowable, and allocated appropriately. All records must be capable of verification by qualified auditors.

1. Contractor and subcontractors shall include in any contract with an audit firm a clause to permit access by DHCS to the working papers of the external independent auditor, and require that copies of the working papers shall be made for DHCS at its request.
2. Contractor and subcontractors shall keep adequate and sufficient financial records and statistical data to support the year-end documents filed with DHCS. All records must be capable of verification by qualified auditors.
3. Accounting records and supporting documents shall be retained for a three-year period from the date the year-end cost settlement report was approved by DHCS for interim settlement. When an audit by the Federal Government, DHCS, or the California State Auditor has been started before the expiration of the three-year period, the records shall be retained until completion of the audit and final resolution of all issues that arise in the audit. Final settlement shall be made at the end of the audit and appeal process. If an audit has not been completed within three years, the interim settlement shall be considered as the final settlement.
4. Financial records shall be kept so that they clearly reflect the source of funding for each type of service for which reimbursement is claimed. These documents include, but are not limited to, all ledgers, books, vouchers, time sheets, payrolls, appointment schedules, client data cards, and schedules for allocating costs. All records must be capable of verification by qualified auditors.
5. Contractor's subcontracts shall require that all subcontractors comply with the requirements of Exhibit A, Attachment I, Part I, Section 3.
6. Should a subcontractor discontinue its contractual agreement with the Contractor, or cease to conduct business in its entirety, Contractor shall be responsible for

Exhibit B A2
Budget Detail and Payment Provisions

retaining the subcontractor's fiscal and program records for the required retention period. The State Administrative Manual (SAM) contains statutory requirements governing the retention, storage, and disposal of records pertaining to state funds. Contractor shall follow SAM requirements located at <http://sam.dgs.ca.gov/TOC/1600.aspx>.

7. The Contractor shall retain all records in accordance with the time periods outlined in 45 CFR Section 75.361.
8. In the expenditure of funds hereunder, and as required by 45 CFR Part 96, Contractor shall comply with the requirements of SAM and the laws and procedures applicable to the obligation and expenditure of federal and state funds.

B. Dispute Resolution Process

1. In the event of a dispute under this Exhibit B, other than an audit dispute, Contractor shall provide written notice of the particulars of the dispute to DHCS before exercising any other available remedy. Written notice shall include the contract number. The Director (or designee) of DHCS and the County Drug or Alcohol Program Administrator (or designee) shall meet to discuss the means by which they can effect an equitable resolution to the dispute. Contractor shall receive a written response from DHCS within 60 days of the notice of dispute. The written response shall reflect the issues discussed at the meeting and state how the dispute will be resolved.
2. To ensure that necessary corrective actions are taken, financial audit findings that are either uncontested or upheld after appeal may be used by DHCS during prospective contract negotiations.

**Exhibit B, Attachment I A2
Funding Amounts**

Fiscal Year 2017-18	Funding Amount
	Original
SAPT Block Grant - FFY 2018 Award (10/1/17 to 6/30/19)	
Duns #: 613900919 Federal Grant #: 2B08TI010062-18	
CFDA: 93.959 FAIN: TI10062-17	
- Discretionary	7,511,235
- Prevention Set-Aside	2,265,425
- Friday Night Live/Club Live	30,000
- Perinatal	248,296
- Adolescent/Youth	312,343
TOTAL	10,367,299

ORIGINAL THREE-YEAR TOTAL	31,101,897
A01 THREE YEAR TOTAL	31,542,434
A02 THREE YEAR TOTAL	31,786,517

Fiscal Year 2018-19	Funding Amount
	A01
SAPT Block Grant - FFY 2019 Award (10/1/18 to 6/30/20)	
Duns #: 613900919 Federal Grant #: 2B08TI010062-19	
CFDA: 93.959 FAIN: TI10062-18	
- Discretionary	7,951,772
- Prevention Set-Aside	2,265,425
- Friday Night Live/Club Live	30,000
- Perinatal	248,296
- Adolescent/Youth	312,343
TOTAL	10,807,836

Fiscal Year 2019-20	Funding Amount	
	Original	A02
SAPT Block Grant - FFY 2020 Award (10/1/19 to 6/30/21)		
Duns #: 613900919 Federal Grant #: 2B08TI010062-20		
CFDA: 93.959 FAIN: TI10062-19		
- Discretionary	7,511,235	7,755,318
- Prevention Set-Aside	2,265,425	2,265,425
- Friday Night Live/Club Live	30,000	30,000
- Perinatal	248,296	248,296
- Adolescent/Youth	312,343	312,343
TOTAL	10,367,299	10,611,382

Special Terms and Conditions

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

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

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

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

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

Index of Special Terms and Conditions

1. Federal Equal Employment Opportunity Requirements	19. Novation Requirements
2. Travel and Per Diem Reimbursement	20. Debarment and Suspension Certification
3. Procurement Rules	21. Smoke-Free Workplace Certification
4. Equipment Ownership / Inventory / Disposition	22. Covenant Against Contingent Fees
5. Subcontract Requirements	23. Payment Withholds
6. Income Restrictions	24. Performance Evaluation
7. Audit and Record Retention	25. Officials Not to Benefit
8. Site Inspection	26. Four-Digit Date Compliance
9. Federal Contract Funds	27. Prohibited Use of State Funds for Software
10. Termination	28. Use of Small, Minority Owned and Women's Businesses
11. Intellectual Property Rights	29. Alien Ineligibility Certification
12. Air or Water Pollution Requirements	30. Union Organizing
13. Prior Approval of Training Seminars, Workshops or Conferences	31. Contract Uniformity (Fringe Benefit Allowability)
14. Confidentiality of Information	32. Suspension or Stop Work Notification
15. Documents, Publications, and Written Reports	33. Public Communications
16. Dispute Resolution Process	34. Compliance with Statutes and Regulations
17. Financial and Compliance Audit Requirements	35. Lobbying Restrictions and Disclosure Certification
18. Human Subjects Use Requirements	

1. Federal Equal Opportunity Requirements

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

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

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

2. Travel and Per Diem Reimbursement

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

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

3. Procurement Rules

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

a. Equipment/Property definitions

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

- (1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
 - (2) **Minor equipment/property:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.
- b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.
- c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment/property and services related to such purchases for performance under this Agreement.
- (1) Equipment/property purchases shall not exceed \$50,000 annually.

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

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

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

4. Equipment/Property Ownership / Inventory / Disposition

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

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

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

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

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

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

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

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

g. **Motor Vehicles**

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

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

Automobile Liability Insurance

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.

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

5. Subcontract Requirements

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

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

- (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
 - (g) Firms or individuals proposed for use and approved by DHCS' funding Program via acceptance of an application or proposal for funding or pre/post contract award negotiations,
 - (h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Chapter 5 Section 5.80 Subsection B.2. View this publication at the following Internet address: <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/State-Contracting>
- b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.
- (1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.
- e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:
- "(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
- i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 32 and/or other numbered provisions herein that are deemed applicable.

6. Income Restrictions

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

7. Audit and Record Retention

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

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

8. Site Inspection

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

9. Federal Contract Funds

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

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.
- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

10. Termination

a. For Cause

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

b. For Convenience

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

11. Intellectual Property Rights

a. Ownership

- (1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.

- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
- (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. **Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.
- (4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

b. Retained Rights / License Rights

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.

- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

c. Copyright

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

d. Patent Rights

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

e. Third-Party Intellectual Property

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

f. Warranties

- (1) Contractor represents and warrants that:
 - (a) It is free to enter into and fully perform this Agreement.

- (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
 - (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.
 - (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
 - (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
 - (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.
 - (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
 - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
- (2) DHCS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

g. Intellectual Property Indemnity

- (1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.
- (2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its

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

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

h. Federal Funding

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

i. Survival

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

12. Air or Water Pollution Requirements

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

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

13. Prior Approval of Training Seminars, Workshops or Conferences

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

14. Confidentiality of Information

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or

are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.

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

15. Documents, Publications and Written Reports

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

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

16. Dispute Resolution Process

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

- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code Section 100171.
- c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.
- d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

17. Financial and Compliance Audit Requirements

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

- d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

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

18. Human Subjects Use Requirements

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

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

19. Novation Requirements

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

20. Debarment and Suspension Certification

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

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

21. Smoke-Free Workplace Certification

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

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.
- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.
- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

22. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

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

23. Payment Withholds

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

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

24. Performance Evaluation

(Not applicable to grant agreements.)

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

25. Officials Not to Benefit

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

26. Four-Digit Date Compliance

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

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

27. Prohibited Use of State Funds for Software

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

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

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

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

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

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

29. Alien Ineligibility Certification

(Applicable to sole proprietors entering federally funded agreements.)

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

30. Union Organizing

(Applicable only to grant agreements.)

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

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

31. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

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

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

f. Earned/Accrued Compensation

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

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

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

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

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

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

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

32. Suspension or Stop Work Notification

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

- (2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:
- (a) Cancel, extend, or modify the suspension or stop work notification; or
 - (b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.
- c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.
 - d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.
 - e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.
 - f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

33. Public Communications

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

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

34. Compliance with Statutes and Regulations

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

35. Lobbying Restrictions and Disclosure Certification

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

- a. Certification and Disclosure Requirements
 - (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
 - (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant,

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

- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
 - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
 - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
 - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

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

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

CERTIFICATION REGARDING LOBBYING

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

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

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

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

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

Name of Contractor

Printed Name of Person Signing for Contractor

Contract / Grant Number

Signature of Person Signing for Contractor

Date

Title

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

California Department of Health Care Services

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

Attachment 2

CERTIFICATION REGARDING LOBBYING

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

Approved by OMB

0348-0046

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

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

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

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

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