

California Health Benefit Exchange
Contract Solicitation and Model Contract – HBEX5
Health Plan Management /
Delivery System Improvement
Under the Level 1 Establishment Grant

December 22, 2011

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**California Health Benefit Exchange
Contract Solicitation and Model Contract – HBEX5
Qualified Health Plan Management &
Delivery System Improvement
Under the Level 1 Establishment Grant**

1. INTRODUCTION:

This notice provides important information regarding the California Health Benefit Exchange's interest in and selection of a Contractor who shall provide consulting services. The Contractor will perform highly specialized consulting services to assist the Exchange in setting up a process for the competitive selection of and terms for Qualified Health Plans (Health plans). The services provided in the Model Contract are important objectives in the Exchange's Level 1 Establishment Grant and are needed as the Exchange works towards full implementation of Exchange and program integration functions.

Proposers are invited to review and respond to this solicitation. The term "proposer" and "vendor" shall be used interchangeably within this solicitation document. To submit a proposal to provide consulting services, as set forth in the Model Contract's Exhibit A, Statement of Work, proposers must:

- Comply with the instructions contained in this document;
- Meet the minimum qualification requirements;
- Comply with and propose an approach to the basic requirements specified in the Model Contract's , Exhibit A, Statement of Work; and
- Agree to the contract terms and conditions which are set forth in the Model Contract's Exhibits B, C, D, and E.

Please read this document carefully. Make sure you respond to the solicitation by the due date. Please refer to the "Key Action Dates" shown below in Section 3.

2. CONTRACT TERM AND TOTAL CONTRACT VALUE:

Contract Term	Total Contract Value:
March 1, 2012-November 1, 2012	Not to exceed \$600,000 (Six-hundred thousand dollars)

3. KEY ACTION DATES:

Important Key Action Dates (Subject to Change)	
Release of Solicitation and Model Contract	December 22, 2011
Proposals Due from Vendors	January 30, 2012 (by 5:00 p.m. PST)
Important Key Action Dates (Subject to Change)	
State Evaluation, Negotiations and Vendor Selection Process	January 31, 2012 through February 15, 2012
Notification of Intent to Award	February 16, 2012
Last Day to Protest Selection	February 27, 2012 <i>(Date the protest must be received by the Exchange.)</i>
Contract Award Final Contract Development and Execution	March 1, 2012 <i>(Assumes no protest. A protest will delay this event.)</i>

4. BACKGROUND:

Soon after the passage of national health care reform through the Patient Protection and Affordable Care Act of 2010 (ACA), California became the first state to enact legislation to establish a qualified health benefit exchange (Chapter 655, Statutes of 2010-Perez and Chapter 659, Statutes of 2010-Alquist). The California state law is referred to as the California Patient Protection and Affordable Care Act (CA-ACA).

Starting in 2014, the California Health Benefit Exchange will be offering a statewide health insurance exchange to make it easier for individuals and small businesses to compare plans and buy health insurance in the private market. The focus of the Exchange will be on individuals, including those eligible for subsidies only available through the Exchange, and small businesses, including those which qualify for tax credits and subsidies under the ACA,. The Exchange's goal is to make affordable insurance available to all qualified individuals and to all California businesses with less than 50 employees.

In October, 2011 the Exchange Board adopted an ambitious Statement of Vision, Mission and Values:

VISION: The vision of the California Health Benefit Exchange is to improve the health of all Californians by assuring their access to affordable, high quality care.

MISSION: The mission of the California Health Benefit Exchange is to increase the number of insured Californians, improve health care quality, lower costs, and reduce health disparities through an innovative, competitive marketplace that empowers consumers to choose the health plan and providers that give them the best value.

Based on this vision and mission, the goals and objectives of the California Health Benefit Exchange in selecting health plan partners are to:

- Reduce the number of uninsured Californians by creating an organized, transparent marketplace for Californians to purchase affordable, quality health care coverage, help individuals to claim available federal tax credits and cost-sharing subsidies, and to meet the personal responsibility requirements imposed under the federal act (ACA);
- Be consumer-focused, by offering a consumer-friendly experience that is accessible to all Californians, recognizing the diverse cultural, language, economic, educational and health status needs.
- Be a catalyst for change by strengthening the health care delivery system;
- Serve as an active purchaser, including creating competitive processes to select participating carriers and other contractors;
- Require that health care service plans and health insurers issue coverage in the individual and small employers markets and compete on the basis of price, quality, and service (and not on risk selection);
- Assure integrity through a commitment to accountability, responsiveness, transparency, speed, agility, reliability and cooperation; and
- Meet federal and state law requirements, guidance and regulations.

The Exchange is an independent public entity within California State Government. It is governed by a five-member board appointed by the Governor and Legislature. Four of the members are appointed for four year terms, two by the Governor, one by the Senate Rules Committee and one by the Speaker of the Assembly. The California Secretary of Health and Human Services is a voting ex-officio member of the Board. The Board elected the California Secretary of Health and Human Services Agency as Chair, signaling its intention to actively coordinate and collaborate with existing state agencies involved in providing health coverage to Californians.

The Exchange works in close partnership with the:

- Department of Health Care Services, which oversees and administers the California's Medicaid Program (Medi-Cal);
- Managed Risk Medical Insurance Board, which oversees and administers the California's Children's Health Insurance Program (Healthy Families and Access for Infants and Mothers), and both the state and ACA funded high risk pools (Major Risk Medical Insurance Program and Pre-Existing Condition Insurance Plan);
- Two agencies that regulate health insurance in California, the Department of Managed Health Care and Department of Insurance;
- The Centers for Medicare and Medicaid Services (CMS), under CMS both the Center for Consumer Information and Insurance Oversight and the Center for Medicaid, other major purchasers of health care, such as California Public Employees Retirement System and large employers; and

- A broad range of stakeholders whose constituencies will be impacted by health care reform.

The Exchange is currently funded through a \$39 million federal Level I Establishment Grant for administrative and consultant services through August 14, 2012. During the Level I Grant, the Exchange has or will conduct planning, research and early implementation activities revolving around the **eleven (11) Core Areas** set forth by the U.S. Department of Health and Human Services in the Level I Grant application. These are, in brief, the following:

- I. Background Research;
- II. Stakeholder Consultation;
- III. Legislative and Regulatory Action;
- IV. Governance;
- V. Program Integration;
- VI. Exchange Information Technology Systems;
- VII. Financial Management;
- VIII. Oversight and Program Integrity;
- IX. Health Insurance Market Reforms;
- X. Consumer Assistance for Individuals and Small Businesses; and
- XI. Business Operations.

Successful progress toward addressing these Core Areas will assure that the Exchange can meet the federal standards for becoming a federally qualified health exchange by January 1, 2013 and be a fully operational entity that provides easier access to quality, lower cost health insurance on January 1, 2014.

This solicitation focuses on the specific Core Areas IX (Health Insurance Market Reforms) and XI (Business Operations). The Exchange is seeking a highly qualified Contractor (which may include multiple partners through joint partnerships or subcontracting) to assist staff in developing a process for certification, selection and management of Qualified Health Plans (Health plans) and in developing programs and policies through which the Exchange can foster improvements in the delivery of health care. The selection process must assure that Health plans offered by the Exchange meet state and federal certification requirements and that the Exchange evaluates specific health plan quality and quality improvement standards that are in the best interest of enrollees in the Exchange. The Contractor will also assist staff in developing its terms and conditions for Health plans.

5. ADDITIONAL INFORMATION:

- Additional information regarding the California Health Benefit Exchange, including the full Vision, Mission and Values Statement, is available on our website at: www.healthexchange.ca.gov

- The Federal ACA may be located at www.healthcare.gov. Useful sections for this project are Section 1311 (c) (1) (d)(4)(A) and (e) for standards on Qualified Health Plans and Sections 1341, 1342 and 1343 on risk avoidance.
- The enabling California state law, which enacted a California Health Benefit Exchange (CA-ACA,) may be located at: www.healthexchange.ca.gov
- California Health Benefit Exchange Level I Establishment Grant may be located at:
www.healthexchange.ca.gov/Grants/Pages/GrantInformation.aspx
- The proposed federal regulations impacting the Exchange are located at:
www.healthcare.gov/center/regulations/index.html
- Other Helpful Websites:
 - www.healthcare.gov
 - cciio.cms.gov
 - www.mrmib.ca.gov
 - www.dhcs.ca.gov
 - www.dmhc.ca.gov
 - www.insurance.ca.gov

6. **CONTACT PERSONS:**

The contact persons for this solicitation are Dennis Gilliam, Contracts Administrator and Thien Lam. Mr. Gilliam and Ms. Lam may be contacted via e-mail at HBEXSolicitation@hbex.ca.gov **or** by telephone at (916) 263-0743 for Mr. Gilliam and (916) 263-4272 for Ms. Lam.

During the solicitation process, all inquiries regarding this solicitation shall be directed to Mr. Gilliam or Ms. Lam who will coordinate responses with other Exchange staff. When submitting inquiries, proposers must reference this solicitation number (i.e. HBEX5).

The last day to submit inquiries is Wednesday, January 25, 2012 (at 5:00 p.m. PST). Responses to inquiries will be posted on the Exchange's website at www.healthexchange.ca.gov.

7. **CONTRACTING PROCESS:**

Enabling statutes exempt the Exchange from certain provisions of the state law related to competitive bidding. The Exchange is committed to assuring a fair, open and rigorous competition for the award of this contract and will use a competitive negotiation process to select a Contractor. **The competitive negotiation process is not a Request for Proposals (RFPs).** Rather, it is a dynamic competitive process through which the Exchange can evaluate and test, through a negotiation process, the strengths and weaknesses of the vendors and their proposals, and make a final selection based on the criterion contained in this solicitation document. The goal of the process is to negotiate the maximum levels of services available for a competitive price and for the Exchange to obtain the overall best value.

In the competitive negotiation process, all proposers are encouraged to offer their best method of how to provide services in order to achieve the Exchange's desired outcomes and make use of their best individual business practices. The Exchange reserves the right to:

- Accept proposals as submitted;
- Reject a part or all of a proposal; and/or
- Reject all proposals.

Proposers who have demonstrated greater ability and experience in developing a health plan selection and management process may be invited to discuss and provide further information on their experience and solutions proposed by the vendor to the Exchange, and/or improvements to the vendor's submitted proposal. Proposers shall be invited to enter into negotiations with the Exchange at the sole discretion of the Exchange.

Vendors may subcontract with other entities to provide services under this contract. The use of any subcontractor must be fully explained in the vendor's proposal. Any and all subcontracts entered into by the Contractor for the purpose of meeting the requirements of the contract are the responsibility of the Contractor. The Exchange will hold the Contractor responsible for assuring that subcontractors meet all of the requirements of the negotiated contract for services.

8. CONFLICT OF INTEREST FOR SELECTED CONTRACTOR:

Contractor acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interest of the State. Thus, Contractor agrees to refrain from any practices, activities or relationships that could reasonably be considered to be in conflict with Contractor's fully performing his/her obligations to the State under the terms of this Contract. Contractor shall inquire about and require disclosure by its Staff and Subcontractors of all activities that may create an appearance of conflict. In the event that Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, Contractor shall submit to the State Project Manager a full disclosure statement setting forth the relevant details of any activity which the Contractor reasonably believes may have the appearance of a conflict of interest for the State's consideration and direction. Failure to promptly submit a disclosure statement setting forth the relevant details for the State's consideration and direction shall be grounds for Termination of this Contract.

Consistent with the Public Contract Code Section 10365.5, no person, firm or subsidiary who has been awarded a consulting services contract may submit a bid, nor be awarded a contract, for the provision of the services, procurement of goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the product of the consulting service contract. This does not apply to:

- (a) Any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.

- (c) Consulting services contracts subject to Chapter 10 (commencing with [Section 4525](#)) of Division 5 of Title 1 of the Government Code.

All financial, statistical, personal, technical, and other data and information related to the California Health Benefit Exchange's operations that are not publicly available and that become available to Contractor shall be protected by Contractor from unauthorized use and disclosure. Contractor agrees that Contractor shall not use any non-public information for any purpose other than carrying out the provisions of the Agreement.

9. DARFUR CONTRACTING ACT CERTIFICATION:

All proposers must address the requirements of the Darfur Contracting Act of 2008 for the reason described in the Public Contract Code Section 10475. **Complete and sign Attachment 4.** Any scrutinized companies are ineligible to, and cannot, submit a proposal for contract with a State agency for goods or services. A scrutinized company is defined in the Public Contract Code Section 10476. However, proposals may be submitted by scrutinized companies if permission is obtained first from the Department of General Services, according to the criteria set forth in the Public Contract Code Section 10477(b).

10. EVALUATION AND SELECTION CRITERION:

The Exchange will select a vendor based on an assessment of the best overall value to the Exchange. The California Health Benefit Exchange is not required to select the lowest priced proposal submitted. The Exchange will review responses to this solicitation in their entirety, using the following factors as noted below.

The Exchange will accept proposals only from vendors, joint ventures and partnerships which meet the following minimum qualifications. This will be determined through a review of both the vendor's (and/or proposed partners' or subcontractor's) past experience and the experience of the key individuals who will be working on this project, as reflected in their submitted resumes.

A. Minimum Qualifications:

- Experience with prior projects in successfully developing competitive standards for the evaluation and selection of health plans by public or private entities;
- Experience with prior projects in successfully developing standards and procedures, or providing advice, on the oversight and monitoring of health plan performance, which may include licensing or certification, decertification and recertification, of health plans at either the state or federal levels;
- Experience with prior projects in the successful assessment of the relationship between health plan contracting and payment processes and the promotion of high quality care among providers; and
- Experience in project management of large scale projects with multiple deliverables and aggressive timelines.

B. Desirable Qualifications:

- Knowledge of and experience with projects involving implementation of the federal ACA, or with state operated health care exchanges pre-dating the ACA;
- Knowledge of and experience with projects involving the development of health coverage contracting standards and quality standards, through state and local programs, especially Medicaid and/or Children's Health Insurance Program;
- Knowledge of and experience with California health insurance markets, especially the individual health insurance market and small employer health coverage markets, its regulation and the interface of the California health insurance market with state and local health coverage programs;
- Experience with prior health coverage or health system projects involving the interactions between local, state and/or federal government with stakeholder groups;
- Knowledge of and experience with health plan and provider level performance measurement, payment and quality improvement initiatives;
- Knowledge of the health care delivery systems in California, with particular knowledge of safety net providers, including community clinics, public hospitals and other essential community providers.

C. Approach and Methodology for Tasks Specified in the Model Contract Exhibit A, Statement of Work:

- Demonstrates originality, practicability, efficiency and feasibility of the proposer's approach in achieving and accomplishing the tasks specified in the Model Contract's Exhibit A, Statement of Work;
- Demonstrates capacity to effectively carry out the tasks in the Statement of Work, with the necessary and appropriate staffing and expertise, including program, research, policy, analytical, actuarial and administrative staff and/or project partners;
- Demonstrates ability to be innovative and creative by improving the concepts, approaches and strategies originally identified in the Exhibit A, Statement of Work.
- Demonstrates knowledge and ability to develop program design recommendations and strategies identified in the Statement of Work in a manner that will comply with state and federal statutory and regulatory requirements;
- Demonstrates ability to tailor project activities and deliverables to the unique aspects of California's health insurance markets and existing

public programs, as well as demonstrating ability to “think outside of the box;”

- Demonstrates ability to effectively and successfully develop a health plan selection strategy, including an implementation timeline and a model contract solicitation; and
- Demonstrates ability to effectively and successfully develop a plan for health plan performance monitoring and for the development of health plan standards, including potential contract terms regarding network design, provider payment methods to promote better quality and other quality and performance standards.

D. Proposed Project Cost:

- The proposed fixed fees for each of the project deliverables as specified in the Model Contract’s Exhibit A (Statement of Work) must be competitive with those proposed by other vendors and be the best overall value;
- Appropriate level of staff proposed for each task, as reflected in the Proposal Cost Format (Attachment 1); and
- Proposed costs adequately reflect the vendor’s ability to meet the key tasks, perform the services specified in the Model Contract’s Exhibit A (Statement of Work) and proposer’s approach and methodology to achieve the tasks required in the Statement of Work.

E. Acceptance/Modification to Model Contract Language:

- A request to change the language of the Model Contract in a way that the Exchange, at its discretion, concludes **will improve the Statement of Work, project deliverables and/or other terms of the Model Contract, will count in favor of the proposer during the evaluation and selection process;** and
- A request to change the language of the Model Contract in a way that indicates the proposer’s inability or unwillingness to meet the objectives and goals of this project, or to accept other model contract terms/language, **will count against the proposer during the evaluation and selection process.**

11. PROTEST PROCESS:

A protest may be submitted according to the procedures set forth below. If a vendor has submitted a proposal which it believes to be totally responsive to the requirements of the solicitation process and believes the proposer should have been selected, according to the evaluation and selection criteria (in Section 9 of this solicitation document) and the proposer believes the Exchange has incorrectly selected another proposer for the award, the proposer may submit a protest of the selection as described below. Protests regarding selection of the “successful proposer” will be heard and resolved by the California Health Benefit Exchange’s Executive Director.

All protests must be made in writing, signed by an individual who is authorized to contractually bind the proposer, and contain a statement of the reason(s) for protest, citing the law, rule, regulation or procedures on which the protest is based. The protester must provide facts and evidence to support their claim. Certified or registered mail must be used unless delivered in person, in which case the protester should obtain a receipt of delivery. The final day to receive a protest is ten calendar days after the Notification of Intent to Award. **Under the current schedule, the final day for receiving a protest would be Monday, February 27, 2012 (by 5:00 p.m. PST).** Protests must be mailed or delivered to:

Street Address:	Mailing Address:
California Health Benefit Exchange Contracts Administrator 2535 Capitol Oaks Drive, Suite #120 Sacramento, CA 95833	California Health Benefit Exchange Contracts Administrator 2535 Capitol Oaks Drive, Suite #120 Sacramento, CA 95833

12. PROPOSAL FORMAT & CHECK LIST:

Proposals must be received by the Exchange and are due on **Monday, January 30, 2012 (by 5:00 p.m. PST)**. Vendors must ensure that their proposal complies with the instructions contained in this solicitation document. Materials submitted by proposed vendors will be kept confidential to the extent provided by law.

When submitting proposals, vendors must assure that eight (8) separately bound copies of their proposal are received by the Exchange. Proposals must be completely sealed and mailed or delivered to:

**California Health Benefit Exchange
Solicitation Process HBEX5
2535 Capitol Oaks Drive, Suite #120
Sacramento, CA 95833**

Late proposals **will not** be accepted.

A. Cover Letter (Maximum 1 Page):

Include a cover letter (on company letterhead) with the following information:

- 1) Proposer's company name, mailing address and telephone number;
- 2) Name, telephone number, fax number, e-mail address, and title of a contact person;
- 3) Title of this solicitation;
- 4) Federal Tax Identification Number and all information required to complete the coversheet of the Model Contract (STD 213);
- 5) If the proposer is a Disabled Veteran Business Enterprise (DVBE) or State Certified Small Business (CSB), include their Certification Number and expiration date. However, no preference points for being a certified DVBE or CSB will be given to the proposer;

- 6) Submission date of the proposal; and
- 7) Signature of an individual authorized to enter into contracts on behalf of the proposer.

B. Vendor Qualifications & References (Maximum 25 pages):

- 1) Provide an overall description of the proposer's organization, the date the organization was established, type of ownership, location of headquarters, and major offices in California (if applicable), and number of employees in the organization. If the proposer represents a joint venture, provide information on all of the project partners with identification of the primary partner;
- 2) Describe the proposer's understanding and knowledge of both the federal Affordable Care Act and the state legislation implementing the ACA in California.
- 3) Describe the proposer's understanding and knowledge of the mission, vision, goals and objectives of the California Health Benefit Exchange;
- 4) Describe the proposer's understanding and knowledge of the goals and objectives of this project (as described in the "Background" narrative of this solicitation document [Section 4], as well as the Model Contract's Exhibit A, Statement of Work);
- 5) Describe and provide examples of the proposer's capabilities, skills, and experience with prior projects in successfully developing competitive standards for the evaluation and selection of health plans by public or private entities;
- 6) Describe and provide examples of the proposer's capabilities, skills, and experience with prior projects developing standards and procedures, or providing advice, on the licensing or certification, decertification and recertification, of health plans at either the state or federal levels;
- 7) If applicable, describe the proposer's knowledge of and experience with projects involving implementation of the federal ACA, or with state operated health care exchanges pre-dating the ACA;
- 8) If applicable, describe the proposer's prior experience working with other state agencies in California, including the Department of Health Care Services, Managed Risk Medical Insurance Board or the California Public Employees Retirement System;
- 9) If applicable, describe the proposer's knowledge of and experience with projects involving the development of health insurance delivery standards, quality standards and pay for performance through state and local programs, especially Medicaid and/or Children's Health Insurance Program;
- 10) If applicable, describe the proposer's knowledge of and experience with California health insurance markets, especially the individual health insurance market and small employer health coverage markets, its

regulation and the interface of the California health insurance market with state and local health coverage programs;

- 11) If applicable, describe the proposer's knowledge and experience with prior health policy or health delivery system projects involving the interactions between local, state and/or federal government with stakeholder groups;
- 12) Provide a chart describing the organization's structure and a statement where the project staff fit into the structure;
- 13) Identify the key personnel who will work on this project. Include resumes for each key person, describing their experience, tenure and expertise that qualifies them to work on this contract (See item 10.C. below on the submission of resumes);
- 14) Describe the availability and accessibility of key personnel;
- 15) Provide five (5) references who are knowledgeable about the proposer's work on current or recent contracts. The references should be selected for contracts that are related to the health care industry and tasks for which the Exchange is seeking services. Provide the following information for each reference:
 - a) Name, title, address, telephone number, and e-mail address; and
 - b) Brief description of the type of services performed.
- 16) If the proposer was a previous or is a current Contractor with the State of California, provide the following information noted below for contracts from the prior three (3) years:
 - a) Contracting State of California department's name;
 - b) Contract term date (i.e. start and end dates);
 - c) Contract Number;
 - d) Summary of services performed and provided; and
 - e) Contract amount.

C. Key Personnel Resumes (Maximum of 5 Pages for Each Individual):

Provide resumes of key personnel who will provide the services contained in the Model Contract's Exhibit A, Statement of Work. The resumes should clearly demonstrate that the person possesses the experience and knowledge required to execute the tasks and develop the deliverables specified in the Statement of Work. The resume should contain the individual's academic and professional achievements, as well as participation and affiliation with any professional organizations.

D. Use of Subcontractors or Joint Proposals (Maximum 5 pages):

List and provide a summary of all subcontractors or joint partners that will be used for this Contract. Given the broad range of tasks in this solicitation, the

Exchange encourages the use of collaborative proposals using joint partnerships or subcontractors. Include the following information on each proposed subcontractor or joint partner:

- 1) Name and address of the subcontractor and the name, telephone number and e-mail address of the subcontractor's main contact person;
- 2) Brief description of which tasks or projects the subcontractor will perform, or assist in performing, and how the subcontractor will be a benefit and value for the task or project;
- 3) Brief description of the subcontractor's background and experience and resumes of the subcontractor's key staff assigned to the project;
- 4) Estimated cost of each subcontractor for the proposed tasks or projects, based on actual price quotes or negotiations with the proposed subcontractor; and
- 5) If the proposed subcontractor is a Disabled Veteran Business Enterprise or State Certified Small Business, include their Certification Number and expiration date.

E. Approach and Methodology to Perform Services in Exhibit A, Statement of Work and Project Timeline (Maximum 25 pages):

- 1) Describe the proposer's detailed approach for achieving and accomplishing the tasks needed by the Exchange, as set forth in this solicitation document and the Model Contract's Exhibit A, Statement of Work;
- 2) Describe, in detail, any other alternative, innovative and creative approaches for improving the concepts and strategies which were originally identified in the Model Contract's Exhibit A, Statement of Work;
- 3) Develop a detailed timeline or work plan which identifies key milestones and tasks that need to be performed, in order to provide services under this Agreement; and
- 4) Describe the software and tools that the proposer will use to manage this project.

F. Acceptance/Modifications to Model Contract Language

This solicitation document includes the Model Contract, Exhibit A through Exhibit E. Proposers are **encouraged to offer alternative, innovative or creative approaches in improving the concepts and strategies** originally identified in Exhibit A, Statement of Work. Proposers must include a revised Statement of Work to fully reflect the vendor's proposed alternative approaches and methodologies.

Proposers interested in contracting with the Exchange must carefully review the contract and prepare a "red-line version," indicating modifications and changes to the contract. Do not re-type the Model Contract.

Proposed changes must be documented directly on the enclosed Model Contract, using strikeouts and underlines. Strikeouts signify deletions to contract language, whereas underlines document additional proposed contract language. **Do not use italics or “track changes.”** Wherever appropriate, additional pages may be inserted.

In the event the proposer does not have any modifications to the Model Contract Language, include a one page insert indicating that there are no additional modifications. The proposer does not need to include a copy of the Model Contract with their proposal if there are no proposed modifications.

Note that changes to the Model Contract will be evaluated as part of the Evaluation and Selection Criteria, as prescribed in Section 9.

G. Project Cost:

Estimate the number of hours for each staff person who will perform services for this contract. Identify the hourly rates for each staffing level, administrative overhead rate, and costs for any subcontract. Identify the proposed fixed costs for each of the four tasks identified in the Model Contract, Exhibit A, Statement of Work. When submitting the Project Cost, use the format shown on **Attachment 1**.

H. Signed Contractor Certification Clauses (CCC-307):

A completed and signed Contractor Certification, which certifies that the vendor is in compliance with State required Contractor Certification Clauses. This must be signed by a person authorized to sign contracts, preferably the individual signing the cover letter. This is **Attachment 2**.

I. Certification regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions

A completed and signed Certification is required as a condition for receiving Federal Funding. This is **Attachment 3**.

J. Darfur Contracting Act Form:

A completed and signed Darfur Contracting Act Form is required as a condition to submit a proposal. This must be signed by a person authorized to sign contracts, preferably the individual signing the cover letter. This is **Attachment 4**.

MODEL CONTRACT

AGREEMENT NUMBER

XXXXXXXXXX

REGISTRATION NUMBER

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

STATE AGENCY'S NAME

California Health Benefit Exchange

CONTRACTOR'S NAME

2. The term of this Agreement is: **March 1, 2012** through **November 1, 2012**

3. The maximum amount of this Agreement is: **\$ 600,000.00**
Six-Hundred Thousand Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Statement of Work	9 pages
Exhibit B – Budget Detail and Payment Provisions	3 pages
Exhibit C – General Terms and Conditions	10 pages
Check mark one item below as Exhibit D:	
<input checked="" type="checkbox"/> Exhibit – D Special Terms and Conditions (Attached hereto as part of this agreement)	3 pages
<input type="checkbox"/> Exhibit – D* Special Terms and Conditions	
Exhibit E – Additional Provisions	3 pages
Attachment 1 – Resumes	TBD pages

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.)

BY (Authorized Signature)

DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

STATE OF CALIFORNIA

AGENCY NAME

California Health Benefit Exchange

BY (Authorized Signature)

DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Peter V. Lee, Executive Director

ADDRESS

2535 Capitol Oaks Drive, Suite #120, Sacramento, CA 95833

*California Department of General
Services Use Only*

Exempt per:
**Government Code
Section 100505**

Exhibit A (Standard Agreement)

STATEMENT OF WORK

I. Overview

The Contractor shall assist, advise and support the California Health Benefit Exchange with the following: (1) Providing necessary timelines, cost estimates and background to assist in the development of California's Exchange Establishment Level II Grant Application; (2) Establishing standards and processes for the certification and competitive selection of Qualified Health Plans (QHP's) to provide health coverage in Exchange programs; (3) Developing an ongoing program of certification, recertification and decertification, performance measurement, quality monitoring and compliance for participating health plans; (4) Recommending strategies for Exchange programs or activities that might improve the broader health care delivery system in the state; and (5) Developing an implementation timeline and process for health plan selection and ongoing monitoring.

II. Level II Grant Application Background

Consistent with the timeline included in this Solicitation, by April 15, 2012 develop a health plan selection and implementation timeline, estimate the funding and resources necessary to implement a selection process that includes delivery system reforms and assist in preparing supporting documentation for the Level II Grant Application.

III. Health Plan Certification and Selection

Under the ACA, the Exchange must be able to offer health coverage by January 1, 2014. In preparation for these tasks, the Contractor shall thoroughly review the ACA federal standards for qualified health plans in the Exchange (especially Sections 1311(c) (1), (d)(4)(A) and (e) of the Public Health Service Act) and any relevant proposed or final regulations relating to QHP standards, as well as applicable California law, including but not limited to the Exchange enabling legislation, the California Patient Protection and California Affordable Care Act (CA-ACA).

A. *Minimum standards.* The Contractor shall develop options and make recommendations for minimum standards that health plans must meet to ensure that Exchange coverage complies with applicable and appropriate state and federal laws and regulations and such other minimum standards as may be established by the Exchange Board. Minimum certification standards may include but not be limited to the following:

1. Being in good standing with the requirements of a state license under the Knox-Keene Health Care Service Plan Act of 1975 administered by the Department of Managed Health Care, or a certificate of authority issued by the California Department of Insurance, consistent with state law and regulations, and taking into account the following;

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- a) Contractor shall review and consider differences in the statutory and regulatory standards for Knox-Keene regulated health plans and health insurers under the Insurance Code and recommend specific standards, processes, procedures and/or coordination with Department of Managed Health Care and California Department of Insurance as are necessary to ensure that all health plans participating in the Exchange meet similar minimum standards; and
 - b) Contractor shall review and consider the minimum statutory and contractual requirements for health plans providing services in programs administered by other state agencies, such as Department of Health Care Services, Managed Risk Medical Insurance Board and California Public Employees Retirement System.
2. Compliance with all relevant provisions of state and federal law applicable to health insurance issuers offering health coverage through exchanges, including but not limited to:
- a) Requirement to offer and provide, as a minimum, essential health benefits as defined in federal and state law, guidance and regulation;
 - b) Network adequacy standards to ensure a sufficient choice of providers;
 - c) *Essential Community Providers*. Inclusion of a sufficient number of essential community providers, with recommendations regarding, at a minimum:
 - i. Criteria and processes to evaluate health plan proposed networks and the extent to which the networks include Essential Community Providers; and
 - ii. Contract terms, ongoing requirements and strategies for monitoring and tracking the extent to which essential community providers deliver health care services to enrollees in Exchange coverage.
 - d) Federal transparency in coverage and quality reporting requirements.
3. Multiple benefit design offerings, including the multiple coverage tiers defined in state and federal law and regulation, and benefit design decisions adopted by the Exchange Board;

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4. Recommendations for potential additional minimum certification standards for health plans, consistent with state and federal law, and the mission, vision and values of the Exchange, which may include but not be limited to demonstrated efficacy of the potential health plan in the following areas:
 - a) Promoting healthy lifestyles and ensuring the provision of recommended clinical preventive services;
 - b) Implementing strategies to reduce and eliminate health disparities in ethnic and underserved communities; and
 - c) Success in fostering consumer involvement and shared decision making regarding health care services and treatment options.
 5. *SHOP Exchange.* Recommendations for specific additional requirements, standards or contract terms that may be appropriate for health plans participating in the Small Business Health Options Program, (SHOP) providing coverage to small employers in the Exchange, which may include but not be limited to, allowing or requiring Health plans providing small employer coverage to also provide coverage for individuals in the Exchange.
- B. *Selection Criteria.* The Contractor shall develop options and make recommendations regarding the criteria for health plan certification and selection, beyond minimum standards, including specific benchmarks, performance measures or value determinations for the Exchange to consider in certifying and contracting with health plans to provide Exchange coverage, which may include but not be limited to:
1. Criteria to identify and compare health plan performance on price, quality and service, such as:
 - a) Evidence of consumer-focused and consumer-friendly coverage and services;
 - b) Accessibility, timeliness and geographic access of the health plan's proposed network to serve the best interests of potential enrollees in the Exchange, including cultural and linguistically appropriate services and providers, and services and providers that are accessible for persons with disabilities and special needs;
 - c) Affordability, competitive pricing and value for the benefits provided;
 - d) Integration and/or opportunity for coordination with other state-administered coverage programs, including Medi-Cal and Healthy

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Families;

- e) Past health plan performance on existing measures of quality and service, such as HEDIS, the Consumer Assessment of Healthcare Providers and Systems, federal program standards such as those applicable to the Children’s Health Insurance Program, the *eValue8* health plan performance measurement tool of the National Business Coalition on Health, or accreditation by a national organization such as the National Committee on Quality Assurance; and
 - f) Health plan and provider network innovations such as primary care medical homes, chronic disease management and care coordination.
2. *Risk Mix.* Recommendations for Exchange health plan selection criteria, policies and program strategies to minimize adverse selection in Exchange programs, which may include but not be limited to strategies and recommended approaches affecting health plans both inside and outside of the Exchange.
- C. *Certification and Selection Process.* In collaboration with the Exchange, Contractor shall identify options and make recommendations for a health plan certification and selection process, recertification and decertification, that is practical, efficient and timely, to ensure the Exchange can meet federal requirements and timelines for Exchange certification by January 1, 2013. The process shall include at a minimum:
- 1. The application and evaluation process for prospective health plans to apply for and obtain certification to participate in the Exchange based on demonstrated compliance or willingness to comply with Exchange certification standards, as well as the process for recertification and decertification of health plans; and
 - 2. Coordination with and potential collaborative roles and responsibilities for existing state agencies engaged in regulating and/or contracting with health plans in the state, including Department of Managed Health Care, California Department of Insurance, California Department of Health Care Services, Managed Risk Medical Insurance Board and the California Public Employees Retirement System.
- D. Contractor shall make recommendations for ongoing monitoring of certification and quality standards for participating health plans.
- E. Consider and integrate feedback provided by Stakeholders in response to a list of key questions and issues developed and disseminated by the Exchange prior to the start of this contract. The Exchange will disseminate and collect input

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which the Contractor shall use in developing its recommendations.

- F. Contractor shall submit a written report to the Exchange with options and recommendations for minimum certification standards, health plan selection criteria, health plan selection process and ongoing quality standards and monitoring by June 1, 2012. The report shall be reviewed by the Exchange, sent out for comment from program integration partners and impacted stakeholders, and any changes or additions resulting from the review process and requested by the Exchange, will be made within two weeks of receiving Exchange feedback.

IV. Delivery System Improvement

The Contractor shall advise and make recommendations to the Exchange on potential strategies for fostering better value in California's health delivery system. In collaboration with the Exchange, the Contractor shall:

- A. Conduct research and analysis of potential ways that the Exchange, through its various ACA coverage programs and its role in the overall health coverage marketplace, can contribute to better value in the health delivery system, including participation in payment reforms, wellness and prevention initiatives, programs to track and reduce health disparities among ethnic, racial and low income groups, and through performance measurement initiatives shared with other State of California and local health coverage programs, including but not limited to:
 - 1. Review and analysis of existing reports, studies and references that identify potential delivery system improvements that can be made by health benefits exchanges through contracting and payment strategies;
 - 2. Best practices and successful examples of public and private performance measurement and strategies aimed at delivery system improvement, at the federal and state level, in California and in other states; and
 - 3. Potential partnerships for the Exchange with other public and private purchasers in the state, and the Centers for Medicare and Medicaid Services Innovations Center or other federal programs to improve the overall health delivery system.
- B. Consider and integrate feedback provided by Stakeholders in response to a list of key questions and issues developed and disseminated by the Exchange prior to the start of this contract. The Exchange will disseminate and collect input which the Contractor shall use in developing its recommendations.
- C. Include recommendations for delivery system improvements in the June 1, 2012 written report to the Exchange on the health plan selection and certification process.

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V. QHP Selection Process and Implementation:

In consultation with the Exchange, the Contractor shall design an implementation approach for participating health plan selection and the offering of multiple qualified health plans in the Exchange. In collaboration with the Exchange, the Contractor shall:

- A. Research and make recommendations, including the rationales for the recommendations, for a health plan selection process that allows the Exchange to choose the optimal number and type of participating health plans consistent with the mission, vision and goals of the Exchange. Based on review of the available field research, evidence and best practices in other public and private programs and other states, the recommendations shall address the following:
 - a. The optimal number and type of health plan offerings to maximize value for the Exchange and for enrollees in Exchange coverage;
 - b. The optimal number and type of health plan offerings to maximize and facilitate meaningful and informed consumer choice;
 - c. The optimal number and type of health plan offerings for each county, region and/or on a statewide basis and the process used to determine the most effective mix of county, regional and/or statewide plan offerings;
 - d. Choice of health plan offerings that effectively address the needs of special populations and hard-to reach communities likely to be served in Exchange programs; and
 - e. Health plan offerings to support seamless continuity of coverage for individuals and families whose eligibility fluctuates between the Exchange, Medi-Cal and Healthy Families, which may include but not be limited to, inclusion of existing Medi-Cal and Healthy Families participating health plans in the Exchange and/or health plans with overlapping provider networks with Medi-Cal and Healthy Families participating health plans.
- B. Consider and integrate feedback provided by Stakeholders in response to a list of key questions and issues developed and disseminated by the Exchange prior to the start of this Agreement. The Exchange will disseminate and collect input which the Contractor shall use in developing its recommendations.
- C. Submit the report and recommendations for health plan certification standards, selection process and delivery system improvements to the Exchange by June 1, 2012. The documents shall be reviewed by the Exchange, sent out for comment from program integration partners and impacted stakeholders, and any changes or

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additions resulting from the review process and requested by the Exchange will be made within two weeks of receiving Exchange feedback.

- D. Develop and submit a model procurement document, using the Exchange's Model Contract Solicitation format, incorporating the health plan certification standards and delivery systems improvements adopted by the Board, a Model Contract and the agreed upon implementation process for the selection and negotiation of health plan contracts with the Exchange. This is due by September 1, 2012. The Exchange will provide the basic format for the solicitation document. The documents shall be reviewed by the Exchange, sent out for comment from program integration partners and impacted stakeholders, and any changes or additions resulting from the review process and requested by the Exchange will be made within two weeks of receiving Exchange feedback.
- E. If directed by the Exchange and mutually agreed upon by the Contractor, the Exchange may amend this Agreement's Statement of Work (Exhibit A) and Budget Detail and Payment Provisions (Exhibit B) to procure additional services. The additional services may include assisting the Exchange on the actual implementation of the health plan selection and contracting process ultimately adopted by the Exchange Board.

VI. General Requirements:

Throughout the term of this Contract, the Contractor shall be prepared to:

- A. Using the timeline included below as a base, develop a timeline with key tasks and deliverables for each of the proposed project areas in this Statement of Work and work with Exchange management and staff to complete project tasks and deliverables pursuant to the approved timeline and update the timeline if necessary.
- B. Meet regularly with Exchange staff to coordinate project activities and provide regular project updates.
- C. Prepare written status reports, as directed by the Exchange Project Coordinator, for public release in conjunction with monthly Exchange Board meetings and assist, if directed, in making presentations on project deliverables at Board meetings.
- D. Attend meetings of the Exchange Board and between Exchange Staff and Stakeholders to get comments and assist in the presentation of reports and recommendations to the Board and public as requested by the Exchange. Make any final Board or Exchange directed revisions within five working days of the

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Board meeting, including those resulting from any Board approved public input.

- E. Work with the Exchange to solicit and incorporate stakeholder input throughout the various project stages in this Contract, to include at minimum, representatives of Exchange partners, consumer groups, health care providers, county government, health insurance agents and brokers and health plans.

VII. Project Representatives:

The project representatives during the term of this Agreement are listed below. The representatives may be changed by either party through formal written notice.

For the Contractor:

For the Exchange:

Exhibit A (Standard Agreement)

Health Plan Procurement Tentative Timeline	
Deliverable	Date
<p>Draft Contractor report with detailed tasks, timeline and resources that will be needed to support health plan selection and procurement as background to the Level II grant application</p> <ul style="list-style-type: none"> • Final timeline and tasks provided two weeks after Exchange has delivered input. 	April 15, 2012
<p>Draft Contractor combined report and recommendations for health plan certification standards, selection process and for delivery system improvements</p> <ul style="list-style-type: none"> • Final reports provided two weeks after Exchange has delivered input. 	June 1, 2012
<p>Draft Contractor developed health plan solicitation document and Model health plan contract</p> <ul style="list-style-type: none"> • Final documents provided two weeks after Exchange has delivered input. 	September,1 2012
Health plan solicitation released	October 1, 2012
Health plan solicitation responses due	January 1, 2013
Exchange preliminary health plan selection	April 1, 2013
Final selection of Health plans and adjustment of rates	July 2013 (TBD)
Coverage begins in the Exchange	January 1, 2014

Exhibit B (Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

A. Invoicing and Payment:

1. The maximum amount payable under this agreement shall not exceed \$600,000 (six-hundred thousand dollars and zero cents). **(Note: the final number in Exhibit B will reflect the amount negotiated between the Exchange and the successful Contractor, not to exceed \$600,000.)**
2. For services satisfactorily rendered, and upon receipt and approval of the invoice(s), the California Health Benefit Exchange, agrees to pay the Contractor for said services based on a fixed fee for product delivery. The Contractor shall submit an invoice supported by brief report which summarizes completed tasks toward contract deliverables.
3. Upon delivery and Exchange approval of the final Level II Grant Application report, as set forth in Exhibit A, Item II, of this Agreement, the Contractor shall be paid a sum of \$_____ for that deliverable.
4. Upon delivery and Exchange approval of the combined final Health Plan Certification and Selection, and Delivery Systems Improvement report as set forth in Exhibit A, Items III and IV, of this Agreement, the Contractor shall be paid a sum of \$_____ for those deliverables.
5. Upon delivery and Exchange approval of both the final Qualified Health Plan Selection and Implementation Process report and the Health Plan Procurement and Model Contract documents as set forth in Exhibit A, Item V of this Agreement, the Contractor shall be paid a sum of \$_____ for those deliverables.
6. Administrative overhead at a rate of _____ the fixed fees maximum not to exceed \$_____.
7. These fixed product delivery fees shall include major and incidental costs related to the Agreement, including the cost for any Exchange approved subcontractor and the cost of travel and per diem for attending the required meetings with Exchange staff and the Board.
8. Invoices shall include the Agreement Number, Index Code 3110 and CFDA Number 93-525 and shall be submitted in triplicate in arrears of project task completion to:

California Health Benefit Exchange
2535 Capitol Oaks Drive, Suite 120
Sacramento, CA 95833

Exhibit B (Standard Agreement)

Any invoices submitted without the above referenced information may be returned to the Contractor for further re-processing.

B. Budget Contingency Clause:

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

C. For Contract With Federal Funds:

1. 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.
2. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the term of this Agreement for the purposes of this program. 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.
3. 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.
4. The California Health Benefit Exchange has the option to invalidate the Agreement under the 30-day cancellation clause or to amend the Agreement to reflect any reduction of funds.

D. Prompt Payment Clause:

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

Exhibit B (Standard Agreement)

E. Review:

The California Health Benefit Exchange reserves the right to review service levels and billing procedures as they impact charges against this Agreement.

F. Final Billing:

Invoices for services must be received by the California Health Benefit Exchange within 90 days following each state fiscal year, or 90 days following the end of the contract term, whichever comes first. The final invoice must include the statement "Final Billing."

G. Nonresident Tax Withholdings:

Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have seven percent of their total payments withheld for state income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.

Exhibit C (Standard Agreement)

GENERAL TERMS AND CONDITIONS

A. APPROVAL:

This Agreement is of no force or effect until signed by both parties.

B. AMENDMENT:

This Agreement may be amended by mutual consent of the parties. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

C. ASSIGNMENT:

This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

D. AUDIT:

Contractor agrees that the awarding department (“the State”) and the Bureau of State Audits, or their designated representatives, shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include the same right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).

E. INDEMNIFICATION:

Contractor agrees to indemnify, defend and save harmless the State, its officers, trustees, agents and employees from any and all claims, losses, costs, liabilities, damages or deficiencies, including interest, penalties and attorneys’ fees, which:

- (i) Arise out of, are due to, or are alleged to arise out of or be due to, a breach by the Contractor of any of its representations, warranties, covenants or other obligations contained in this Agreement, or
- (ii) Are caused by or result from or are alleged to arise out of or result from, the Contractor’s acts or omissions constituting bad faith, willful misfeasance, negligence or reckless disregard of its duties under this Agreement, or
- (iii) Accrue or result, or are alleged to accrue or result, to any and all contractors, subcontractors, suppliers, laborers, and any other person,

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firm or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement, or

- (iv) Arise out of, are due to, or are alleged to arise out of or be due to, any claim or allegation of infringement, misappropriation or violation of any patent, copyright, trademark, trade secret, domain name or other intellectual property right comprising or involving any of the Subject Inventions, Prior Inventions or other Inventions provided in any way by Contractor and used, reproduced or otherwise exploited by the State in connection with any of the Agreement Programs or any Turnover thereof; or
- (v) Arise out of, are due to or are alleged to arise out of or be due to, any violation of HIPAA, the HIPAA Regulations, HITECH Act, other security or privacy laws, or any other laws, by Contractor or any subcontractor or agent under Contractor's control.

If and to the extent that the Contractor has knowledge of a claim that it believes may develop into an action that would be subject to this Agreement, the Contractor shall promptly notify the State of the claim.

Right to Tender or Undertake Defense. If the State is named a party in any judicial, administrative, or other proceeding arising out of or in connection with a breach of this Agreement or a matter for which the Contractor is obligated to indemnify the State under this Agreement, then the State will have the option at any time to either (i) tender its defense to Contractor, in which case Contractor will provide qualified attorneys, consultants, and other appropriate professionals to represent the State's interests at Contractor's expense, or (ii) undertake its own defense, choosing the attorneys, consultants, and other appropriate professionals to represent its interests, in which case Contractor will be responsible for and shall pay reasonable fees and expenses of such attorneys, consultants, and other appropriate professionals. If the State elects option (ii) above, the Contractor shall be afforded a reasonable opportunity to participate in the defense and attend the legal proceedings at its own expense; however, the State shall have sole control of the defense.

Right to Control Resolution. Notwithstanding that the State may have tendered its defense to the Contractor, neither party shall settle, compromise or resolve any claims, causes of action, liabilities or damages against the State without the consent of the other party, which consent shall not be unreasonably withheld. Any such resolution will not relieve the Contractor of its obligation to indemnify the State.

Exhibit C (Standard Agreement)

F. DISPUTES:

Contractor shall continue with the responsibilities under this Agreement during any dispute, unless directed otherwise by the State in writing.

G. TERMINATION FOR CAUSE:

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. Such right of termination shall be without prejudice to any other remedies available to the State. Upon receipt of any notice terminating this Agreement, the Contractor shall immediately discontinue all activities affected, unless the notice directs otherwise, and the State may proceed with the work in any manner deemed proper by the State. In such event, the State shall pay the Contractor only the reasonable value of the services rendered, and all costs to the State shall be deducted from any sum due the Contractor. The State may, at its sole discretion, offer an opportunity to cure any breach prior to terminating for default.

H. INDEPENDENT CONTRACTOR:

Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State except for purposes of Civil Code Section 1798.24.

I. RECYCLING CERTIFICATION:

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)

J. NON-DISCRIMINATION CLAUSE:

During the performance of this Agreement, Contractor and its subcontractors, as well as their agents and employees, shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including health impairments related to or associated with a diagnosis of cancer for which a person has been rehabilitated or cured), age (over 40), marital status, and use of family and medical care leave pursuant to state or federal law. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination

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and harassment. Contractor and subcontractors, as well as their agents and employees, shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Contractor and subcontractors, as well as their agents and employees, shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (Title 2, California Code of Regulations, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

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

K. CONTRACTOR CERTIFICATION CLAUSES:

1. 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.)

2. DRUG-FREE WORKPLACE REQUIREMENTS:

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

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

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- c. Every employee who works on the proposed Agreement will:
 - 1) Receive a copy of the company's drug-free workplace policy statement; and
 - 2) Agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the State 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.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:**

Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two (2)-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.)

4. **UNION ORGANIZING:**

Contractor hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.

5. **DOING BUSINESS WITH THE STATE OF CALIFORNIA:**

a. **CONFLICT OF INTEREST:**

Contractor acknowledges 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 Contractor shall contact the State immediately for clarification.

- 1) **Current State Employees (PCC 10410):**
 - a) 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.

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- b) 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.
- 2) Former State Employees (PCC 10411):
- a) For the two (2)-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, transaction, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
 - b) For the twelve (12)-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 twelve (12)-month period prior to his or her leaving state service.
- 3) If Contractor violates any provisions of the above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420).
- 4) 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)).
- b. LABOR CODE/WORKERS' COMPENSATION:
- Contractor acknowledges the provisions of law 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 agrees to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700.)
- c. AMERICANS WITH DISABILITIES ACT:
- Contractor certifies that it complies with the Americans with Disabilities Act (ADA) of 1990, as amended, 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.)

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d. **CONTRACTOR NAME CHANGE:**

Contractor acknowledges that 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.

e. **CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

- 1) Contractor acknowledges that, when agreements are to be performed in the state by corporations, the State will verify that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- 2) "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.
- 3) 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.

f. **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.

g. **AIR OR WATER POLLUTION VIOLATION:**

Contractor acknowledges that, 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 or provisions of federal law relating to air or water pollution.

Exhibit C (Standard Agreement)

h. **PAYEE DATA RECORD FORM STD 204:**

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

L. TIMELINESS:

Time is of the essence in this Agreement.

M. COMPENSATION:

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

N. GOVERNING LAW:

This Agreement shall be administered, construed, and enforced according to the laws of the State of California (without regard to any conflict of law provisions) to the extent such laws have not been preempted by applicable federal law. Any suit brought hereunder (including any action to compel arbitration or to enforce any award or judgment rendered thereby) shall be brought in the state or federal courts sitting in Sacramento, California, the parties hereby waiving any claim or defense that such forum is not convenient or proper. Each party agrees that any such court shall have in personam jurisdiction over it and consents to service of process in any manner authorized by California law.

O. ANTITRUST CLAIMS:

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

1. The Government Code Chapter on Antitrust claims contains the following definitions:
 - a. "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - b. "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
2. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under

Exhibit C (Standard Agreement)

Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

3. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
4. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

P. CHILD SUPPORT COMPLIANCE ACT:

In accordance with the Child Support Compliance Act,

1. The Contractor acknowledges the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
2. The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

Q. UNENFORCEABLE PROVISION:

Should one or more provisions of this contract be held by any court to be invalid, void or unenforceable, the remaining shall nevertheless remain and continue in full force and effect.

Exhibit C (Standard Agreement)

R. UNION ORGANIZING:

By signing this Agreement, Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this Agreement and agrees to the following:

1. Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
2. No state funds received under this agreement will be used to assist, promote or deter union organizing.
3. Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.
4. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.
5. Contractor will be liable to the State for the amount of any funds expended in violation of the requirements of Government.

Exhibit D (Standard Agreement)

SPECIAL TERMS AND CONDITIONS

A. Dispute Provisions:

1. If the Contractor disputes a decision of the State's designated representative regarding the performance of this Agreement or on other issues for which the representative is authorized by this Agreement to make a binding decision, Contractor shall provide written dispute notice to the State's representative within 15 calendar days after the date of the action. The written dispute notice shall contain the following information:
 - a. the decision under dispute;
 - b. the reason(s) Contractor believes the decision of the State representative to have been in error (if applicable, reference pertinent contract provisions);
 - c. identification of all documents and substance of all oral communication which support Contractor's position; and
 - d. the dollar amount in dispute, if applicable.

2. Upon receipt of the written dispute notice, the State program management will examine the matter and issue a written decision to the Contractor within 15 calendar days. The decision of the representative shall contain the following information:
 - a. a description of the dispute;
 - b. a reference to pertinent contract provisions, if applicable;
 - c. a statement of the factual areas of agreement or disagreement; and
 - d. a statement of the representative's decision with supporting rationale.

3. The decision of the representative shall be final unless, within 30 days from the date of receipt of the representative's decision, Contractor files with the California Health Benefit Exchange a notice of appeal addressed to:

California Health Benefit Exchange
2535 Capitol Oaks Drive, Suite #120
Sacramento, CA 95833

Pending resolution of any dispute, Contractor shall diligently continue all contract work and comply with all of the representative's orders and directions.

B. Termination Without Cause:

This Agreement may be terminated without cause by the State upon 30 days written notice to the Contractor.

Exhibit D (Standard Agreement)

C. Debarment and Suspension:

For federally funded agreements, **Contractor certifies** that to the best of his/her knowledge and belief that he/she and their principals or affiliates or any subcontractor utilized under this agreement, are not debarred or suspended from federal financial assistance programs and activities nor proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. The Contractor also certifies that it or any of its subcontractors are not listed on the Excluded Parties Listing System (<http://www.epls.gov>) (Executive Order 12549, 7 CFR Part 3017, 45 CFR Part 76, and 44 CFR Part 17). A signed certification to these affects shall be kept on file by the State.

D. Certification Regarding Lobbying:

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds.

1. For Agreements with Contractors who are State entities not under the authority of the Governor, or cities, private firms or agencies which are receiving in excess of \$100,000 in federal funds from the California Health Benefit Exchange to perform services. By signing this Agreement the Contractor certifies that to the best of his or her knowledge and belief, that:
 - a. 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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into of a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
 - b. 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, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal Grant or agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
 - c. The Contractor shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.
2. This certification is a prerequisite for making or entering into this transaction and is imposed by Section 1352, Title 31, U. S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of no less than \$10,000 and not more than \$100,000 for each such failure.

Exhibit D (Standard Agreement)

E. Computer Software Copyrights:

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 contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.

F. A-133 Audit:

Pursuant to Office of Management and Budget (OMB) Circular A-133 §____.200 “Audit Requirements”, non-federal entities that expend \$500,000 or more in a year in Federal awards from all sources combined shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133. All OMB Circular A-133 audit reports shall meet the reporting requirements established in OMB §____.320 “Report Submission” and a copy shall be forwarded to the California Health Benefit Exchange.

G. Subcontractors:

(Applicable to agreements in which the Contractor subcontracts out a portion of the work) Nothing contained in this Agreement or otherwise shall create any contractual relationship between the Exchange and any subcontractors, and no subcontractor shall relieve the Contractor of its responsibilities and obligations hereunder. The Contractor agrees to be fully responsible to the Exchange for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor’s obligation to pay its subcontractors is an independent obligation from the obligation of the Exchange to make payments to the Contractor. As a result, the Exchange shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

H. Indirect Costs/Administrative Overhead:

For agreements with other governmental entities and public universities, indirect costs are expenses incurred for administrative services such as, but not limited to, accounting; personnel and payroll administration; accounts payable services; general and specialized insurance coverage; compliance and regulatory monitoring; independent audit services; and legal services. Indirect costs are applied to personnel, operating expenses, supplies, equipment, and travel expenses. Per State Contracting Manual, Section 3.06.B, agencies shall assure that all administrative fees are reasonable considering the services being provided. Agencies may only pay overhead charges on the first \$25,000 of each subcontract. Any subcontractor receiving \$25,000 or more must be clearly identified in the budget display and excluded when the total indirect costs are calculated.

Exhibit E (Standard Agreement)

ADDITIONAL PROVISIONS

A. Intellectual Property Rights:

1. All deliverables as defined in the Statement of Work originated or prepared by the Contractor pursuant to this agreement including papers, reports, charts, and other documentation, but not including Contractor's administrative communications and records relating to this Agreement, shall upon delivery and acceptance by the California Health Benefit Exchange become the exclusive property of the California Health Benefit Exchange and may be copyrighted by the California Health Benefit Exchange.
2. All inventions, discoveries or improvements of the techniques or programs or materials developed pursuant to this agreement shall be the property of California Health Benefit Exchange. The California Health Benefit Exchange agrees to grant a nonexclusive royalty-free license for any such invention, discovery, or improvement to the Contractor and further agrees that the Contractor may sublicense additional persons on the same royalty-free basis.
3. This Agreement shall not preclude the Contractor from developing materials outside this Agreement, which are competitive, irrespective of their similarity to materials which might be delivered to the California Health Benefit Exchange pursuant to this Agreement. All preexisting intellectual property, copyrights, trademarks and products shall be the sole property of the Contractor.

B. Confidentiality:

The Contractor agrees to protect the personal information of all individuals by following applicable federal and state privacy and security requirements.

C. Resumes:

Resumes of personnel the Contractor will use to provide services under this Agreement are included as **Exhibit E – Attachment 1**, and made a part herein by this reference.

D. Evaluation of Contractor:

Contractor is hereby notified that the State will evaluate the Contractor's performance for compliance with the terms of this Agreement within 60 days of the completion of the Agreement. The evaluation shall be prepared on a "Contract/Contractor Evaluation," STD Form 4. If the performance of the Contractor is not satisfactory, the State shall send a copy of the evaluation to the California Department of General Services, Office of Legal Services, within five working days after the completion of the evaluation. Contractor shall be notified and sent a copy of the unsatisfactory evaluation within 15 days after its completion.

Exhibit E (Standard Agreement)

E. Contractor Limitations:

Contractor acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interest of the State. Thus, Contractor agrees to refrain from any practices, activities or relationships that could reasonably be considered to be in conflict with Contractor's fully performing his/her obligations to the State under the terms of this Contract. Contractor shall inquire about and require disclosure by its Staff and Subcontractors of all activities that may create an appearance of conflict. In the event that Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, Contractor shall submit to the State Project Manager a full disclosure statement setting forth the relevant details of any activity which the Contractor reasonably believes may have the appearance of a conflict of interest for the State's consideration and direction. Failure to promptly submit a disclosure statement setting forth the relevant details for the State consideration and direction shall be grounds for Termination of this Contract.

Consistent with the Public Contract Code Section 10365.5, no person, firm or subsidiary who has been awarded a consulting services contract may submit a bid, nor be awarded a contract, for the provision of the services, procurement of goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the product of the consulting service contract. This does not apply to:

- (a) Any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.

- (c) Consulting services contracts subject to Chapter 10 (commencing with [Section 4525](#)) of Division 5 of Title 1 of the Government Code.

All financial, statistical, personal, technical, and other data and information related to the California Health Benefit Exchange's operations that are not publicly available and that become available to Contractor shall be protected by Contractor from unauthorized use and disclosure. Contractor agrees that Contractor shall not use any non-public information for any purpose other than carrying out the provisions of the Agreement

F. Loss Leader:

The Contractor understands and acknowledges that is unlawful for any person engaged in business within the state to sell or use any article or product as a "loss leader," as defined in the Business and Professions Section 17030.

ATTACHMENTS

**Contract Solicitation and Model Contract – HBEX5
Attachment 1
Proposal Cost Format**

B. Itemized Projected Costs for Deliverables:

Identify the projected costs for deliverables as noted below:

Deliverable:	Total Projected Cost for Each Deliverable
Fixed cost for developing Level II Grant Timeline and Tasks	\$
Fixed Cost for developing Qualified Health Plan Certification and Selection Requirements.	\$
Fixed Cost for developing strategies for Delivery Systems Improvements	\$
Fixed Cost for developing the QHP Selection Process and Model Contract Solicitation Document.	\$

C. Administrative Overhead Rate:

List as a percentage the overhead rate for all services, not included in fixed cost or hourly rate, and explain what these services include.

D. Estimated Cost for Each Subcontractor:

List and identify the estimated cost of each subcontractor, if any. This should be based on an estimated cost actively negotiated or bid between the vendor and proposed subcontractor.

E. Total Proposal Cost:

Total Proposal Cost:	\$
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**Contract Solicitation and Model Contract – HBEX5
Attachment 2
Contractor Certification Clauses (CCC-307)**

CCC-307

CERTIFICATION

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

<i>Contractor/Bidder Firm Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of</i>

A. CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE**: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS**: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

1) the dangers of drug abuse in the workplace;

2) the person's or organization's policy of maintaining a drug-free workplace;

3) any available counseling, rehabilitation and employee assistance programs; and,

**Contract Solicitation and Model Contract – HBEX5
Attachment 2
Contractor Certification Clauses (CCC-307)**

4) penalties that may be imposed upon employees for drug abuse violations.

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

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

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

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

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

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

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

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

**Contract Solicitation and Model Contract – HBEX5
Attachment 2
Contractor Certification Clauses (CCC-307)**

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

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

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the Contractor certifies that Contractor is in compliance with Public Contract Code Section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

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

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

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

**Contract Solicitation and Model Contract – HBEX5
Attachment 2
Contractor Certification Clauses (CCC-307)**

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

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

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

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

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

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

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

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the Contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are

**Contract Solicitation and Model Contract – HBEX5
Attachment 2
Contractor Certification Clauses (CCC-307)**

some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

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

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

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

**Contract Solicitation and Model Contract – HBEX5
Attachment 3
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary
Exclusion – Lower Tier Covered Transactions**

OVERVIEW

In accordance with 45CFR Part 76, State contractors who receive federal funds must certify at the time of submitting a model contract proposal, that they are not debarred or otherwise excluded by the Federal government from receiving federal funding. Under this federal rule, entities who contract with the State and who are being considered for federal funding are considered to be "lower tier participants" by the federal government. Subcontractors who will receive federal funding, through the contract are also considered to be "lower tier participants".

After reading the instructions on the next page, the person authorized to submit the model contract and proposal must sign the certification and include it in the proposal package by the due date in the model contract and proposal solicitation letter. Proposals not containing the certification will not be considered for an award.

**Contract Solicitation and Model Contract – HBEX5
Attachment 3
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary
Exclusion – Lower Tier Covered Transactions**

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this certification as part of this proposal, the prospective lower tier participant, is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances, including but not limited to suspension, debarment, or exclusion from participation in any federally-funded health care program following its previous certification.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

**Contract Solicitation and Model Contract – HBEX5
Attachment 3**

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary
Exclusion – Lower Tier Covered Transactions**

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Contract Solicitation and Model Contract – HBEX5
Attachment 3**

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary
Exclusion – Lower Tier Covered Transactions**

- (1) The prospective lower tier participant certifies, by submitting this proposal and signing below, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency, or is excluded as the result of state or federal action from participation in any federally-funded health care program.

- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Signature

Date

Printed Name

Name of Prospective Contractor

**Contract Solicitation and Model Contract – HBEX5
Attachment 4
Darfur Contracting Act Form**

Pursuant to Public Contract Code Section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a “scrutinized” company as defined in Public Contract Code section 10476.

Therefore, to be eligible to submit a bid or proposal, please insert your company name and Federal ID Number and complete only one of the following three paragraphs (via initials for Paragraph # 1 or Paragraph # 2, or via initials and certification for Paragraph # 3):

<i>Company/Vendor Name (Printed)</i>	<i>Federal ID Number</i>
<i>Printed Name and Title of Person Initialing (for Options 1 or 2)</i>	

1. _____ We do not currently have, and have not had within the previous
 Initials three years, business activities or other operations outside of the United
 States.

OR

2. _____ We are a scrutinized company as defined in Public Contract Code
 Initials section 10476, but we have received written permission from the
 Department of General Services (DGS) to submit a bid or proposal
 pursuant to Public Contract Code section 10477(b). A copy of the written
 permission from DGS is included with our bid or proposal.

OR

3. _____ We currently have, or we have had within the previous three years,
 Initials business activities or other operations outside of the United States,
 + certification but we certify below that we are not a scrutinized company
 below as defined in Public Contract Code section 10476.

CERTIFICATION For # 3.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective proposer/bidder to the clause listed above in # 3. This certification is made under the laws of the State of California.

<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County and State of</i>