

# California Health Benefit Exchange



EDMUND G. BROWN JR.  
GOVERNOR

You are invited to review and respond to the Health Benefit Exchange Project, Request for Offer (RFO), entitled:

## **Health Benefit Exchange Request for Offer - HBEx9 Procurement Assistance Consultant Services**

All offerors are expected to adhere to the key action dates shown below. These estimated dates may be adjusted by the state as conditions dictate. The services required are delineated in the Statement of Work (SOW). When submitting offers, they must comply with the instructions found herein. **Failure to comply with any of the requirements may cause the offer to be deemed as “non-responsive”.**

### **CONTACT INFORMATION**

Mona Stolz  
California Health Benefit Exchange  
E-mail address: [hbexsolicitation@hbex.ca.gov](mailto:hbexsolicitation@hbex.ca.gov)

Mailing and Physical Address:  
2535 Natomas Park Drive, Suite 120  
Sacramento, CA 95833

### **KEY ACTION DATES**

<b>Release RFO Date:</b>	<b>May 31, 2012</b>
<b>Questions Due Date:</b>	<b>June 4, 2012 at NOON</b>
<b>Response to Questions Due Date:</b>	<b>June 5, 2012</b>
<b>Offers Due Date:</b>	<b>June 8, 2012 at 4:00PM</b>
<b>Estimated Interviews Date (optional):</b>	<b>June 11, 2012</b>
<b>Estimated Term Dates:</b>	<b>June 15, 2012- March 31, 2013</b>

## SECTION I – OVERVIEW OF OFFER REQUIREMENTS

### 1. GENERAL INFORMATION

#### 1.1 Purpose

The California Health Benefit Exchange (Exchange) seeks the assistance of a consultant<sup>1</sup> ~~to develop~~, under the direction of the Exchange, to plan for setting up and managing a service center. a solicitation document that will be used to acquire the services of a private sector vendor to stand-up a state-wide Service Center for the Exchange. This will include providing strategic and tactical support for the Exchange in developing and assessing alternative approaches for servicing callers who seek information or wish to enroll in new coverage options starting Summer 2013, as well as approaches providing other services such as incoming mail handling, payment processing, and outgoing communications. The work will also include preparation of solicitation documents required under the chosen approach. The specific tasks and deliverables associated with this RFO are included in the SOW in Section II.

#### 1.2 Project 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 state-wide health insurance exchange to make it easier for individuals and small businesses to compare plans and buy health insurance in the private market. Although the focus of the Exchange will be on individuals and small businesses who qualify for tax credits and subsidies under the ACA, the Exchange's goal is to make insurance available to all qualified individuals and to all California businesses with less than 100 employees.

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.

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.

The California Health Benefit Exchange is guided by the following values:

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<sup>1</sup> The term "consultant" should be understood to include multiple individual consultants, as appropriate, whose services are offered by an entity.

- **Consumer-focused:** At the center of the Exchange's efforts are the people it serves, including patients and their families, and small business owners and their employees. The Exchange will offer a consumer-friendly experience that is accessible to all Californians, recognizing the diverse cultural, language, economic, educational and health status needs of those we serve.
- **Affordability:** The Exchange will provide affordable health insurance while assuring quality and access.
- **Catalyst:** The Exchange will be a catalyst for change in California's health care system, using its market role to stimulate new strategies for providing high-quality, affordable health care, promoting prevention and wellness, and reducing health disparities.
- **Integrity:** The Exchange will earn the public's trust through its commitment to accountability, responsiveness, transparency, speed, agility, reliability, and cooperation.
- **Partnership:** The Exchange welcomes partnerships, and its efforts will be guided by working with consumers, providers, health plans, employers and other purchasers, government partners, and other stakeholders.
- **Results:** The impact of the Exchange will be measured by its contributions to expanding coverage and access, improving health care quality, promoting better health and health equity, and lowering costs for all Californians.

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:

- Department of Health Care Services (DHCS), which oversees and administers the California's Medicaid Program (Medi-Cal);
- Managed Risk Medical Insurance Board (MRMIB), which oversees and administers the California's Children's Health Insurance Program (Healthy Families, Access for Infants and Mothers Program), 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 Care and Department of Insurance; and
- A broad range of stakeholders whose constituencies will be impacted by health care reform.

### **1.3 Conflict of Interest and Follow-on Contracts Advisement**

All offerors are reminded of their responsibility to ensure compliance with state statutes and regulations that apply to Conflict of Interest and Follow-on Contracts before submitting an offer.

## **2. OFFEROR QUESTIONS**

Offerors shall submit any questions regarding this RFO by the due date specified in the Key Action Dates table on the cover of this RFO. Only e-mail inquiries addressed to the contact person listed on the RFO cover will be accepted. Offerors shall provide specific information to enable the state to identify and respond to its questions. When submitting inquiries, please reference this RFO number (HBEx9). At its discretion, the Exchange may contact an inquirer to seek clarification of any inquiry received. Offerors that fail to report a known or suspected problem with the RFO or fail to seek clarification and/or correction of the RFO, shall submit an offer at their own risk.

## **3. OFFER RESPONSE CONTENT**

Issuance of this RFO in no way constitutes a commitment by the State of California to award an agreement. The state reserves the right to reject any or all offers received if the state determines that it is in the state's best interest to do so. The state may reject any offer that is conditional or incomplete. Assumptions made by the Offeror in responding to this RFO do not obligate the state in any way. Additionally, assumptions may make the offer conditional and be cause for the offer to be rejected. Responses to this RFO will be assessed based on determining the "Best Value" and the selection, if made, will be to a single Offeror.

The SOW and the offer will be made a part of the resulting Agreement.

### **3.1 Offer Response Requirements**

Offer requirements are contained in the following areas that are described in detail in subsequent sections of this document:

- Administrative Requirements
- Understanding and Approach
- Resumes
- Work Sample
- References
- Costs

### **3.2 Proprietary Information**

Any documentation submitted which has been marked “Confidential” or “Proprietary” may not be accepted. All documents submitted in response to this RFO will become the property of the State of California. Government Code Section 100508(a)(1) exempts from disclosure under the Public Records Act all deliberative processes, communications, or portions of negotiations with entities contracting or seeking to contract with the Exchange and entities with which the Exchange is considering a contract. Included within the exemption are score sheets and proposals submitted by vendors for purposes of competing for a contract.

#### **4. OFFER REQUIREMENTS DETAIL**

Offers must contain all information required in this RFO and must conform to the format described.

##### **4.1 Administrative Requirements**

Offers will be assessed on a pass/fail basis to verify compliance with all Administrative Requirements.

4.1.1 All offers must be submitted within the timelines specified on the RFO cover page.

4.1.2 One (1) hard copy marked “Master”, three (3) additional hard copies, and one (1) electronic copy submitted on CD, shall include the following in this order:

4.1.2.1 A cover letter signed by a person authorized to bind the company which also includes the company’s certification number(s) for SB and/or DVBE (if applicable).

4.1.2.2 A Certificate of Liability Insurance equal to or greater than \$1,000,000.

4.1.2.3 Proof of Workers’ Compensation Liability Insurance.

4.1.2.4 A signed Payee Data Record form STD. 204 available at: [www.documents.dgs.ca.gov/osp/pdf/std204.pdf](http://www.documents.dgs.ca.gov/osp/pdf/std204.pdf).

4.1.2.5 A signed Federal Debarment Certification (Attachment I-B).

4.1.2.6 A completed certification form showing, upon award of the contract the Offeror/Contractor agrees to provide a completed Title 22, California Code of Regulations 1230000 Statement of Economic Interests, Form 700 (Attachment I-D).

4.1.2. 7 A completed certification form showing, upon award of contract the Offeror/Contractor agrees to provide an Acceptable Use Security Policy Acknowledgement Form (Attachment I-E).

4.1.2.8 A completed Darfur Contracting Act Certification (Attachment I-F)

## 4.2 Response Requirements

In addition to the Administrative Requirements, all offers must include:

### 1. Understanding and Approach

Include a description of your understanding of the project's goals, emphasizing your understanding of the objectives and the major activities that must be performed to complete the work. Discuss your strategy for providing a draft solicitation document within the time period allocated for that task. Provide a table showing hours per week by person covering the period June 15, 2012 through March 31, 2013. Include your expectations of all entities outside your own team. Provide the assumptions used to develop the response. Limit your response to no more than 10 pages.

### 2. Resumes

Provide a resume of the relevant experience for each contractor staff person proposed.

For each experience citation provided on a resume, the resume must include:

- Total Duration: Indicate the start (month/year), end (month/year), and duration (total number of years and months) for each job experience submitted;
- Description of Specific Experience: A complete description of the relevant experience, including identification of the client, name of the project, roles and responsibilities of the individual, and types of services provided by the individual.

### 3. Work Sample

Provide a sample of a solicitation document developed by the offeror's proposed lead individual (with at least 50 percent authorship) from a former project. The objective should be to provide a work sample that illustrates performance of similar work.

4. References

Provide two references for each proposed individual. Include a current contact name, company name, and telephone number for each reference. Reference Contacts must be from a client **who managed or supervised the proposed individual's work or who had oversight responsibility for the individual's performance for that work experience**. The Reference Contact must be available to validate the experience provided on the dates specified in the resume. Offerors should note that references will be contacted and the results will be a factor in the evaluation and selection process.

5. Costs

Provide costs by fiscal year in a table consistent with the one shown in Attachment I-C. Provide hours by individual by week. Responses that exceed \$300,000 in total cost will not be considered for selection.

Provide the cost per hour to be used as the basis for any additional work, should the purchase order be amended as described in the General Provisions section of this RFO.

**5. REVIEW OF OFFERS FOR AWARD/SELECTION CRITERIA**

**5.1 Written Responses to this RFO will be evaluated in three phases.**

**Phase 1-** Administrative Requirements. The Selection Team will review responses to the Administrative Requirements.

**Phase 2 -** Review of the understanding and approach, resumes and work sample. This review will cover three areas:

- Understanding of the required work and commitment of adequate resources to meet the deadlines.
- Individual staff experience as described in resumes.
- Relevance and quality of work sample.

**Phase 3 -** Individual reference checking.

**5.2 Interviews**

After Phase 3, interviews may be conducted with up to three of the highest rated offerors. The exact number of offerors interviewed is entirely at the discretion of the State. The specific staff to be interviewed will be agreed upon between the state and the offeror at the time the interview is scheduled.

### 5.3 Evaluation Criteria

Evidence of extensive previous experience in similar complex, short deadline efforts will receive significant consideration in the evaluation process, as will demonstrated experience in drafting solicitation document components as described in the attached Statement of Work. Experience in government human services programs and their supporting technology, California government procurement, and the requirements for Affordable Insurance Exchanges as set forth in federal law, guidance and proposed regulation are highly desirable.

**The table below lists the evaluation categories and the weights each will carry in the overall evaluation of each offer:**

<b>Criteria</b>	<b>Percentage</b>
Administrative Requirements	Pass/Fail
Understanding of the required work, respondent's written strategy for providing a draft solicitation document, including hours by individual by week.	30%
Individual staff experience as described in resumes.	20%
Applicability and quality of work sample.	30%
References	20%
Staff interview score	Pass/Fail
<b>Totals</b>	<b>100%</b>

The response that is most highly rated after applying the weighted evaluation criteria described above shall be recommended for selection. If two or more of the highest rated responses are evaluated as substantially equal after applying the weighted evaluation criteria described above, then the lowest cost response from among the substantially equal responses shall be recommended for selection.

**ATTACHMENT I–A  
Offeror Checklist**

<b>OFFER REQUIREMENTS</b>		<b>Included</b>
<b>I. ADMINISTRATIVE REQUIREMENTS</b>		
A.	Submitted offer contains one (1) hard copy marked “Master”, three (3) additional hard copies, and one (1) electronic copy submitted on CD, of the document specified in Section I Subsection 4.1.2	<input type="checkbox"/>
B.	A cover letter signed by a person authorized to bind the company which also includes the company’s certification number(s) for SB and/or DVBE (if applicable).	<input type="checkbox"/>
		<input type="checkbox"/>
C.	A Certificate of Liability Insurance equal to or greater than \$1,000,000.	<input type="checkbox"/>
D.	Proof of Workers’ Compensation Liability Insurance.	<input type="checkbox"/>
E.	A signed Payee Data Record form STD. 204. <a href="http://www.documents.dgs.ca.gov/osp/pdf/std204.pdf">www.documents.dgs.ca.gov/osp/pdf/std204.pdf</a>	<input type="checkbox"/>
F.	A signed Federal Debarment Certification (Attachment I-B).	<input type="checkbox"/>
G.	A completed certification form for Title 22, California Code of Regulations 1230000 Statement of Economic Interests, and Form 700 Attachment I-D).	<input type="checkbox"/>
H.	A completed certification for the OSI Acceptable Use Security Policy Acknowledgement Form (Attachment I-E).	<input type="checkbox"/>
I.	A completed Darfur Contracting Act Certification (Attachment I-F).	<input type="checkbox"/>
<b>II. RESPONSE REQUIREMENTS</b>		
A.	Understanding and Approach	<input type="checkbox"/>
B.	Resumes	<input type="checkbox"/>
C.	Work Sample	<input type="checkbox"/>
D.	References (Attachment I-G)	<input type="checkbox"/>
E.	Cost Worksheet (similar to Attachment I-C)	<input type="checkbox"/>

## ATTACHMENT I-B

### FEDERAL DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – CERTIFICATION

#### Federal Requirement

Offerors are required to provide the following certification to the agency before award of a purchase order using federal funds. This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participants; responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

#### Present Status

The prospective recipient of federal assistance funds certifies, by submission of this signed certification, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

#### Attach Explanation

Where the prospective recipient of federal assistance funds is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this certification.

#### Instructions for Certification

BEFORE COMPLETING CERTIFICATION, READ THE FOLLOWING INSTRUCTIONS THAT ARE AN INTEGRAL PART OF THE CERTIFICATION.

1. By signing and submitting this certification, the prospective recipient of federal assistance funds is providing the certification as set out below.
2. The certification in this class 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 recipient of federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of federal assistance funds shall provide immediate written notice to the person to whom this certification is submitted if at any time the prospective recipient of federal assistance funds learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily exclude," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
5. The prospective recipient of federal assistance funds agrees by submitting this certification 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 debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DOL.
6. The prospective recipient of federal assistance funds further agrees by submitting this certification that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," 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 it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, 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 Procurement or Non-procurement Programs.
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 suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.

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Offeror Company Name

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Name and Title of Authorized Representative

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Signature

**ATTACHMENT I-C  
Cost Worksheet**

**Contractor Name:** \_\_\_\_\_

Complete the Cost Worksheet provided below. **The total cost of the Agreement cannot exceed \$300,000.**

Proposed Staff Name	Sub-contractor Y/N	Hourly Rate	Number of Hours	Extended Cost	Total Cost (Add all Extended Costs)
			FY 12/13	FY 12/13	
		\$		\$	\$

**ATTACHMENT I-D  
FORM 700 Statement of Economic Interest Certification**

**(DATE)**

**Contractor Name  
Contractor Street Address  
Contractor City, State Zip Code**

California Health Benefit Exchange  
Attention: Mona Stolz  
2535 Natomas Park Drive, Suite 120  
Sacramento, CA 95833

**Upon award of the contract, (Contractor Name) agrees to provide a completed Title 22, California Code of Regulations 1230000 Statement of Economic Interests (Form 700).**

**Authorized Signature of Contractor**

Website Address for Form 700 Pamphlet and Form [Ctrl + Click to follow link] —  
[www.fppc.ca.gov/index.php?id=500](http://www.fppc.ca.gov/index.php?id=500)

**ATTACHMENT I-E  
Exchange Acceptable Use Security Policy  
Acknowledgement Certification**

**(DATE)**

**Contractor Name  
Contractor Street Address  
Contractor City, State Zip Code**

California Health Benefit Exchange  
Attention: Mona Stolz  
2535 Natomas Park Drive, Suite 120  
Sacramento, CA 95833

**Upon award of the contract, (contractor name) agrees to provide a completed OSI  
Acceptable Use Security Policy Acknowledge Form.**

**Authorized signature of contractor**

**ATTACHMENT I-F**  
**Darfur Contract Act Certification**

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>

## Attachment I-G

### STAFF EXPERIENCE SUMMARY FORM

Complete the matrix provided in this attachment following the instructions provided below.

**Proposed Staff Information:** Provide the proposed staff member name, information on education, training and certifications, and identify the staff member's propose role on the CalHEERS Project Management Support Services project.

For the proposed staff roles, use the Position/Primary Responsibility labels from the Cost Bid Form, Schedule A (Attachment 3). Provide information for all eighteen required individuals. No information need be provided for the optional Certified Function Point Specialists.

**Project Name, Client Name, Contact & Number:** Provide the project name and the client's name, contact person and contact phone number.

**Employer, Role, and Type of Experience:** Identify who the proposed staff member was employed by while on the project cited, and describe the staff member's functional roles and responsibilities on the cited project, and the type of experience gained on the project.

**Project Start Date and End Date:** Provide the project's start and end date using MM/DD/YYYY format.

**Proposed Staff Start Date and End Date:** Provide the start and end date the proposed staff person was involved in the cited project using MM/DD/YYYY format.

**Project Total One-Time Cost:** Provide the dollar amount, to the nearest \$10,000. A budget amount is acceptable for projects currently in progress.

**Attachment I-G  
STAFF EXPERIENCE SUMMARY FORM**

<b>Contractor Name:</b>				
<b>Proposed Staff Name:</b>				
<b>Proposed Staff Education, Training and Certifications</b>				
<b>Proposed Staff Role:</b>				
<b>Project Name, Client Contact Name, &amp; Client Contact Phone Number:</b>	<b>Employer, Role, and Type of Experience</b>	<b>Project Start Date and End Date</b>	<b>Proposed Staff Start Date and End Date</b>	<b>Project Total One-Time Cost</b>
Project Name:  Client Contact Name:  Client Contact Phone Number:	Employer:  Role:  Experience:			
Project Name:  Client Contact Name:  Client Contact Phone Number:	Employer:  Role:  Experience:			

## SECTION II — STATEMENT OF WORK

### Health Benefit Exchange IT Support Project Procurement Assistance Consultant Services

This Statement of Work (SOW) reflects the services to be provided by <Contractor Name>, hereinafter referred to as the “Contractor,” for the California Health Benefit Exchange, hereinafter referred to as the “Exchange”.

The Exchange seeks the assistance of a consultant, under the direction of the Exchange, to plan for setting up and managing a service center. This will include providing strategic and tactical support for the Exchange in developing and assessing alternative approaches for servicing callers who seek information or wish to enroll in new coverage options starting Summer 2013, as well as approaches providing other services such as incoming mail handling, payment processing, and outgoing communications. The work will also include preparation of solicitation documents required under the chosen approach.

The consultant is expected to assist in the development of strategic planning and provide tactical support in the development and establishing of a Service Center to include the following areas:

- Options for use of Telephony/IVR and switching technologies
- Technology, management and cost issues regarding use of single service center and/or central service center with multiple additional sites of service (potentially operating with different contracts)
- Evaluation of the steps to achieve integration of existing with new technologies for optimal multi-center service to consumers
- Capacity planning and management of high initial peak volumes (e.g. during open enrollment period from July 2013 through March 2014) versus ongoing volumes
- Management of initial uncertainty of service volumes
- Assistance with estimating call/service volumes and types, and developing associated staffing plans
- Development of processes to assure timely consumer-centric service
- Development and support for conducting a solicitation for providing Service Center functionality

The California Health Benefit Exchange seeks the assistance of a consultant<sup>2</sup> to develop, under the direction of the Exchange, a solicitation document that will be used to acquire the services of a private sector vendor to stand-up a state-wide Service Center for the Exchange. The Service Center will include the following components:

- Call Center
- Mail Room
- Document Image Management

The consultant will have primary responsibility for drafting the components of the solicitation document in a timely manner and in accordance with due dates specified by the Exchange. The consultant will work with a variety of entities including the Exchange, OSI, DHCS and MRMIB and other stakeholders to obtain input for the solicitation document. The consultant will be expected to provide advice and counsel on issues of acquisition strategy, vendor roles and responsibilities and related matters requiring senior level expertise in procurement, government health and human services programs, Service Center establishment and operations, and related other areas.

## **1. TERM**

The term of this Agreement is June 15, 2012 through March 31, 2013.

The Contractor shall not be authorized to deliver or commence performance of services as described in the Agreement until written approval has been obtained from all entities. Any delivery or performance of service commenced prior to the Contractor obtaining all written approvals shall be considered voluntary on the part of the Contractor.

If the identified deliverables (or services) included in the executed Agreement are not completed within the original period of performance and unspent funds remain in the Agreement, the Exchange may, at its option, extend the term of the Agreement up to a maximum of twelve (12) months in order to complete the identified tasks at the originally agreed-upon hourly rates ensuring that the total Agreement costs are not exceeded.

## **2. WORK LOCATION**

The Contractor is required to perform all services under this Agreement on site at the Exchange Project Office unless state-directed travel is required and pre-approved by the state. The Exchange Project Office is located at 2535 Natomas Park Drive, Suite 130, Sacramento, CA 95833 or at another State office location specified by the Exchange.

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<sup>2</sup> The term "consultant" should be understood to mean multiple individual consultants, as appropriate, whose services are offered by an entity.

### 3. COST

The total cost of this Agreement is *(to be completed at contract award)*. Cost details are located on the Budget Detail table, Exhibit B, Attachment I.

### 4. TASKS

During the performance of this Agreement, the Contractor shall provide the following phases and tasks:

#### Phase 1

#### 4.1 Task 1.0-Project Management Activities

##### Task 1.1- Weekly Oral Status Report

Prepare and present a weekly oral report that includes an overview of:

- Activities accomplished
- Schedule
- Findings
- Issues and risks

#### 4.2 Task 2.0-Development of the Solicitation Document

Develop, under the direction of the Exchange, a solicitation document that will be used to acquire the services of a private sector vendor to stand-up a state-wide Service Center for the Exchange.

Provide the following tasks related to the development of a final version of the solicitation document:

**Task 2.1** Draft an initial version of the solicitation document for state partners review

**Task 2.2** Incorporate the changes to the draft as resulting from state partners review and make solicitation document available for public review and comment.

**Task 2.3** Complete the Board-ready solicitation document

**Task 2.4** Complete the evaluation and scoring documentation for use by the evaluation team

#### Solicitation Document Components

The Exchange anticipates that the solicitation document will consist of at least the following logical components. The specific details of the solicitation document organization and content will be finalized during the document's development process. The consultant will be responsible for managing the compilation of the solicitation document components and for drafting most of the content, in collaboration with the Exchange as described below.

➤ Introduction and Background

The Exchange will provide key input to this section, which the consultant will need to adapt to the specific scope, timing and content of this effort.

➤ Solicitation Process and Schedule

The consultant will work with Exchange staff and consultants to develop this material.

➤ Vendor Qualifications

While the Exchange does not intend to arbitrarily exclude qualified bidders, it does believe that vendor qualifications are an important predictor of success. Qualifications should be carefully crafted to support success-oriented evaluation criteria to be applied to responses to the solicitation.

➤ Vendor Scope of Work

The consultant will work with Exchange staff and other consultants to develop this material. Details of Business, Technical, Usability and other requirements will be provided in appendices and will not be the primary responsibility of the consultant. A robust understanding of the requirements, however, will be needed by the consultant to support drafting of Service Center models, sizing and requirements, required deliverables and related components of the vendor scope of work. The vendor scope of work should also include the descriptions of the roles and responsibilities of interfacing entities, including, but not limited to DHCS, MRMIB and county welfare departments.

In addition to the development and implementation the vendor may be responsible for developing and executing training for Service Center Staff which the consultant must be prepared to include in the solicitation document.

The consultant may also be responsible for defining and documenting Service Center Processes and Procedures which the consultant must be prepared to include in the solicitation document.

This section shall also include any performance criteria not covered in the technical appendices referred to above.

➤ Evaluation Criteria

The consultant will work with Exchange staff and other consultants to develop:

- major evaluation categories, criteria within categories and, as appropriate, specific factors within criteria;
- evaluation weights for categories, criteria and factors, as appropriate, that effectively reflect Exchange values in the evaluation results and maximize the probability of project success while making appropriate allowance for risk;
- a scoring system to be used by evaluators that balances simplicity and ease of use with objectivity and fairness;
- materials to be used by evaluators for training and documentation of the evaluation results;

➤ **Proposal Preparation Instructions**

The consultant will prepare the instructions to be followed by vendors when preparing their proposals. The instructions should be designed to minimize repetition and redundancy within vendor proposals, and result in a clear mapping of proposal contents to evaluation criteria.

➤ **Terms and Conditions**

The consultant shall work with the Exchange and any legal, procurement or other entities to develop the contract terms and conditions to be included with the solicitation documents. The consultant should be prepared to offer examples of usable pre-existing language for various common terms and conditions, as well as to accept for inclusion various standard terms and conditions to be provided by the Exchange.

### **4.3 Task 3 – Manage Procurement Evaluation:**

The consultant will provide focused support for the following tasks:

**Task 3.1** Releasing solicitation documents to the vendor community and monitoring questions and responses.

**Task 3.2** Creating and supporting the State staff in the dissemination of procurement communications (e.g. notifications, answers, and addendums).

**Task 3.3** Facilitating key discussions and the procurement process to keep entire procurement team on schedule.

**Task 3.4** Monitoring vendor questions and working with State staff to coordinate answers to ensure timely response to vendor community.

**Task 3.5** Providing support during vendor confidential/concept/terms and conditions discussions and staff interviews.

**Task 3.6** Providing evaluation training to the State evaluation team prior to the receipt of the vendor proposals.

**Task 3.7** Providing quality assurance and change control over procurement documentation and communications.

**Task 3.8** Providing cross-team support during the proposal evaluation, generation reports to support the evaluation process, and providing guidance as necessary.

**Task 3.9** Supporting the development of the Vendor Selection Report.

**Task 3.10** Providing guidance (as feasible) and supporting incorporation of final contract negotiation into final award documentation after State completes negotiations.

**4.4 Task 4 – Attendance at the following Exchange Board meetings (estimated dates):**

As required. The requirement to attend any individual Board meeting may be waived by the Exchange.

## **Phase II**

**4.5 Task 5 – Project Oversight**

The Phase II, Project Oversight task is considered at the State's discretion and an add-on to the contract. The Project Oversight task includes the following duties:

- Track performance to plan. Monitor all plans and plan components, including schedules, for progress against plan, compliance with contractual obligations, plan modifications and effective integration of plan components.
- Continuously monitor and assess the application and use of standards, methods and tools.
- Review and assess system design changes for reasonableness of resource, schedule and budget estimates. Document deficiencies, and make recommendations. As policy or operational enhancements are proposed to the system, Consultant will review documentation and justifications provided for reasonableness, document where the design change requests are deficient, and provide recommendations for improvements where necessary.

- Review system diagrams, models, technical workflows, technical specifications, technical design deliverables and other technical design artifacts developed for compliance with contract terms and conditions, conformity with applicable standards, and quality of work.
- Provide analysis, expertise and recommendations for the development and acceptance of system architecture deliverables, including input on cost and technical issues.
- Review test plans to ensure that testing for compliance with technical requirements, including, but not necessarily limited to, security, performance and capacity, is adequately addressed.
- Monitor and assess both processes and outcomes for all aspects of software configurations, technical architecture, design, implementation and operational performance. Continuously monitor, assess and evaluate processes, procedures, controls, key deliverables and other artifacts of performance for appropriate quality attributes

**Note:** The Project Oversight tasks are not to be costed in response to this proposal but will be negotiated if the State exercises its discretion to extend the contract to include Phase II.

## 5. DELIVERABLES AND DUE DATES

Task Group	Deliverable and Associated Task #	Due Date
<b>1.0</b>	<b>Project Management Activities</b>	
	Task 1.1: Weekly onsite Oral Status Report, documented in writing within 48 hours.	7 calendar days after start of Agreement. Updates as required.
<b>2.0</b>	<b>Development of the Solicitation Document</b>	
	Task 2.1: Complete draft of the solicitation document for state partner review	July 15, 2012
	Task 2.2: Complete draft which includes incorporation of changes, as directed by state partner review, and availability of draft for public review and comment.	July 17, 2012
	Task 2.3: Complete Board-ready solicitation document	July 19, 2012
	Task 2.4: Completion of evaluation and scoring documentation for use by the evaluation team	August 10, 2012
	<b>Manage Procurement Evaluation</b>	
<b>3.0</b>	Task 3.1: Release solicitation documents to the vendor community and monitoring questions and responses.	August 1, 2012
	Task 3.2: Create and support the State staff in the dissemination of procurement communications (e.g. notifications, answers, and addendums).	July 15, 2012
	Task 3.3: Facilitate key discussions and the procurement process to keep entire procurement team on schedule.	August 1, 2012
	Task 3.4: Monitor vendor questions and working with State staff to coordinate answers to ensure timely response to vendor community.	August 15, 2012
	Task 3.5: Provide support during vendor confidential/concept/terms and conditions discussions and staff interviews.	August 21, 2012
	Task 3.6: Provide evaluation training to the State evaluation team prior to the receipt of the vendor proposals.	August 10, 2012
	Task 3.7: Provide quality assurance and change	August 15, 2012

Task Group	Deliverable and Associated Task #	Due Date
	control over procurement documentation and communications.	
Task 3.8:	Provide cross-team support during the proposal evaluation, generation reports to support the evaluation process, and providing guidance as necessary.	August 15, 2012
Task 3.9:	Support the development of the Vendor Selection Report.	August 23, 2012
Task 3.10:	Provide guidance (as feasible) and support to incorporate final contract negotiation into final award documentation after State completes negotiations.	August 23, 2012

## 6. CONTRACTOR PERSONNEL

### 6.1. Respondents Minimum Qualifications

The individual identified in this SOW must have knowledge in the following areas:

- Proven proposal writing experience
- Service Center expertise including process and procedures, technology, models, sizing and capacity.
- Correspondence and Mail Room process and procedures
- Document imaging and image presentation

### 6.2. Personnel and Rates

The individual identified in this SOW will perform the tasks described in this SOW, at the rates indicated.

- Given the size, scope, and complexity of this project, it is of utmost importance that the individual identified in this SOW have adequate hours to work effectively on this project. The Contractor shall be responsible for monitoring the monthly hours billed to ensure the individual effectively meets the needs of the Project.
- Changes in cost estimates that do not alter the total cost of this SOW will be conveyed to the Exchange in writing. The rationale for the change must be included. The Exchange must approve any change to the cost estimates in writing. The identified individual will perform the tasks described in this SOW,

at the rates indicated in Attachment II-A. The Contractor shall identify its individual by name, labor category, and hourly rate.

### **6.3. Reassignment of Personnel**

**6.2.1** The Contractor shall not reassign personnel assigned to the Agreement during the term of the Agreement without prior written approval of the state. If a Contractor employee is unable to perform duties due to illness, resignation, or other factors beyond the Contractor's control, the Contractor shall make every reasonable effort to provide suitable substitute personnel.

**6.2.2** Substitute personnel shall not automatically receive the hourly rate of the individual or position being replaced. The Exchange and the Contractor shall negotiate the hourly rate of any substitute personnel to the Agreement. The hourly rate negotiated shall be dependent, in part, upon the experience and individual skills of the proposed substitute personnel. The negotiated rate cannot exceed the hourly rate stated in the Agreement.

### **6.4. Requirement to File a Statement of Economic Interests**

**6.3.1** In accordance with Title 22, California Code of Regulations, Section 1230000, the consultant Contractor is required to complete a Statement of Economic Interests (Form 700) on an annual basis.

Website Address for Form 700 Pamphlet and Form [Ctrl + Click to follow link] — [www.fppc.ca.gov/index.php?id=500](http://www.fppc.ca.gov/index.php?id=500)

**6.3.2** Contractor's Contract Manager and any professional-level employees and/or subcontractors engaged in performing the consulting tasks described in this Agreement shall complete and submit a Form 700 to the OSI Contract Manager.

**6.3.3** On an annual basis during the term of this Agreement, the Contractor and the same individual and any new professional-level personnel or subcontractor must complete and return a new Form 700. All subsequent forms must be received before the expiration of the initial Form 700. Noncompliance shall be cause for termination of this Agreement.

### **6.5. Requirement to File an Exchange Acceptable Use Security Policy Acknowledgement Form**

- 6.4.1** In accordance with the Exchange Acceptable Use Security Policy, contractors authorized to use state government-owned or leased equipment or facilities are required to read the Exchange Acceptable Use Security Policy and sign the Exchange Acceptable Use Security Policy Acknowledgement Form.

## **7. DELIVERY OF DELIVERABLES**

### **7.1 Deliverable Format**

- 7.1.1** Unless explicitly stated otherwise in this SOW, all deliverables shall be provided in a format compatible with the Exchange Project Management Support standard applications. The standard applications include Microsoft Office XP 2003, Visio 2003, Microsoft Project 2003, and Outlook 2003. In all cases, the Contractor must verify application compatibility with the Exchange Project Management Support prior to creation or delivery of any electronic documentation. Any deviations to these standards must be approved by the Exchange.
- 7.1.2** Hardcopy deliverables shall be on standard 8 ½" x 11" paper. Electronic versions shall be stored in an Exchange-designated central repository and remain the sole property of the Exchange. The delivery media shall be compatible with the Exchange storage devices.
- 7.1.3** If the Exchange does not accept the deliverable(s) or services in the executed Contract, payment for the deliverable(s)/services shall be withheld by the Exchange and the Contractor will be notified. The Contractor must take timely and appropriate measures to correct or remediate the reason(s) for non-acceptance and demonstrate to the Exchange that the Contractor has successfully completed the scheduled work for each deliverable/service before payment is made.

### **7.2 Media and Numbers of Copies**

Two (2) hard copies and one (1) electronic copy of the deliverable are to be submitted to the Project:

Health Benefit Exchange IT Support Project  
2535 Natomas Park Drive, Suite 120  
Sacramento, CA 95833  
Attention: Project Manager

## **8. PAYMENTS AND INVOICING**

Payment for services performed under this Agreement shall be made in accordance with the State of California's Prompt Payment Act (Government Code §927 et seq.).

**8.1 Submission of Invoices**

Invoices may be submitted monthly, in arrears. All invoices must be submitted in triplicate, detailing the labor category hours and dollars and include the following:

- 8.1.1 Transmittal with the purchase order number,
- 8.1.2 A certification statement signed by a company official, attesting to the accuracy of the invoice data,
- 8.1.3 Copies of signed timesheet(s) supporting billed hours, and,
- 8.1.4 Copies of any travel and per diem receipts for specific state-approved travel with a detailed expense report (optional—need only if travel is allowed)
- 8.1.5 Invoices must be submitted directly to:

California Health Benefit Exchange  
2535 Natomas Park Drive, Suite 120  
Sacramento, CA 95833

**8.1.6 Invoice Detail:**

The contractor may submit monthly invoices, in arrears, for the number of hours worked by the contractor less a ten (10) percent withhold. Upon successful completion of the Agreement, the contractor shall submit an invoice for the amount withheld.

**9. POINTS OF CONTACT**

**Contractor Contract Manager: (*To be completed upon contract award*)**

- Name, Title:
- Address:
- Telephone Number:
- Fax Number:
- E-mail address:

**Exchange Contract Manager:**

Name, Title: Errol Thomas, Project Manager  
Address: 2535 Natomas Park Drive, Suite 120,  
Sacramento, Ca 95833  
Telephone Number: 916-263-0421  
Fax Number: 916-265-0510  
E-mail address: Errol.thomas@hbex.ca.gov

**10. EXCHANGE FURNISHED ITEMS**

The following items shall be provided by the Exchange to support this effort:

- Office space for the duration of the Agreement, including: desk, chair, telephone, personal computer, printer access, Internet connection, Microsoft Office, and technical support.
- Items necessary to complete the services identified in the SOW.

All policies and procedures regarding access to and the use of the state facilities are applicable.

**11. RESPONSIBILITIES OF PARTIES****11.1 Contractor Responsibilities**

- 11.1.1** The Contractor shall comply with all applicable Exchange policies, procedures, guidelines and templates. For samples of Best Practices policies, procedures, and templates please refer to: [www.osi.ca.gov](http://www.osi.ca.gov).
- 11.1.2** All Contractor-owned or managed laptops that connect to the Exchange Network shall be encrypted using a commercial third-party encryption software. The encryption software shall meet the National Institute of Standards and Technology Advanced Encryption Standard.
- 11.1.3** If Contractor use of removable media storage devices (i.e. Universal Serial Bus [USB] thumb drives, floppies, CD/DVD, etc.) is allowed by the Project Director, all electronic files stored on the removable media storage device used to store Exchange information shall be encrypted using a commercial third-party encryption software. The encryption software shall meet the National Institute of Standards and Technology Advanced Encryption Standard. Information stored on approved removable storage devices shall not be copied to any unencrypted computer (i.e., desktop or laptop) not connected to DTS/OSI networks.

**11.1.4** All work products and deliverables shall be stored on the Exchange local area network (LAN) storage devices at all times. The most current version of all work products and deliverables must be continuously available for state review at all times.

**11.1.5** The Contractor shall designate a Contract Manager to whom all project communications are addressed and who has the authority to act on all aspects of the services. This person will review the Agreement and associated Agreement documents with the Exchange Project Director or their designee to ensure understanding of the responsibilities of both parties.

**11.1.6** The Contractor shall assign a Project Manager responsible for the overall technical effort. This may be the same individual designated in 9.1.5.

**11.1.7** Prior to expiration of the Agreement, the Contractor shall return all the Exchange property, including security badges.

**11.1.8** The Contractor shall provide cellular telephones and pagers for Contractor staff, where applicable.

## **11.2 Exchange Responsibilities**

**11.2.1** The Exchange Project Director shall designate a Contract Manager to whom all Contractor communications will be addressed and who has the authority to act on all aspects of the services. This person will review the Agreement and associated documents with the Contractor to ensure understanding of the responsibilities of both parties.

**11.2.2** The Exchange shall coordinate provision of information by the Contractor to provide the services under this Agreement. The Exchange will coordinate and schedule the availability of the Exchange and stakeholders for interviews as required by the Contractor.

**11.2.3** The Exchange will coordinate timely review and approval of the Contractor's information and documentation provided by the Contractor in order for the Contractor to perform its obligations under this Agreement.

## **12. AGREEMENT PERFORMANCE**

### **12.1 Performance Acceptance and Non-Acceptance Resolution**

The Exchange shall coordinate the review and acceptance of all work performed and all work products produced by the Contractor as a result of this Agreement. Should the work performed or the products produced by the Contractor be deemed unacceptable, the following resolution process shall be employed except as superseded by other binding processes:

- 12.1.1** The Exchange shall notify the Contractor in writing, within 15 business days after receipt of a deliverable or after completion of service, of any acceptance problems by identifying the specific inadequacies and/or failures in the services performed and/or the products produced by the Contractor.
- 12.1.2** The Contractor shall, within five (5) business days after initial problem notification, respond to the Exchange by submitting a detailed explanation describing precisely how the identified services and/or products actually adhere to and satisfy all applicable requirements, and/or a proposed corrective action plan to address the specific inadequacies and/or failures in the identified services and/or products. Failure by the Contractor to respond to the Exchange initial problem notification within the required time limits may result in immediate Agreement termination. In the event of such termination, the Exchange shall pay all amounts due to the Contractor for all work accepted prior to termination.
- 12.1.3** The Exchange shall, within five (5) business days after receipt of the Contractor-detailed explanation and/or proposed corrective action plan, notify the Contractor in writing whether it accepts or rejects the explanation and/or plan. If the Exchange rejects the explanation and/or plan, the Contractor shall submit a revised corrective action plan within three (3) business days of notification of rejection. Failure by the Contractor to respond to the Exchange notification of rejection by submitting a revised corrective action plan within the required time limits may result in immediate Agreement termination. In the event of such termination, the Exchange shall pay all amounts due to the Contractor for all work accepted prior to termination.
- 12.1.4** The Exchange shall, within three (3) business days of receipt of the revised corrective action plan, notify the Contractor in writing whether it accepts or rejects the revised corrective action plan proposed by the Contractor. Rejection of the revised corrective action plan may result in immediate Agreement termination. In the event of such termination, the Exchange shall pay all amounts due to the Contractor for all work accepted prior to termination.

### **13. CONTRACTOR PARAMETERS**

- 13.1** The Exchange shall not reimburse for any expenses incurred by the Contractor in the execution of activities as described by the Agreement, except as specifically preauthorized in writing by the Exchange.
- 13.2** The Contractor shall provide the services described in the Agreement, at a minimum during normal state business hours (8 a.m. to 5 p.m. Monday through Friday), with the exception of state holidays, and at all other times as required to successfully provide the IT services described by the Agreement.
- 13.3** The Exchange may terminate the Agreement with or without cause by providing 30 days written notice to the Contractor. In the event of such termination, the Exchange shall pay all amounts due to the Contractor for all work accepted prior to termination.

### **14. CONFIDENTIALTY AND NON-DEBARMENT**

Contractor shall sign all confidentiality, non-debarment, privacy, security, conflict of interest, and other necessary agreements as required by the Exchange to successfully provide the services described in the Agreement.

### **15. PROBLEM ESCALATION**

The parties acknowledge and agree that certain technical and/or project-related problems or issues may arise, and that such matters shall be brought to the Exchange's attention. Problems or issues shall normally be reported in regular status reports or in-person meetings. However, there may be instances where the severity of the problem justifies escalated reporting. To this extent, the Exchange State Manager in charge shall determine the level of severity, and notify the appropriate Exchange personnel. The Exchange personnel notified, and the time period taken to report the problem or issue shall be at a level commensurate with the severity of the problem or issue. The Exchange personnel include, but are not limited to, the following:

- First level, the Exchange Project Director (for project-related escalation) or the Exchange Chief Technology Officer (for Exchange Central-related escalation)
- Second level, the Exchange Director

## **16.SUBCONTRACTORS**

- 16.1** The Contractor may, with the approval of the Exchange Project Director and the Procurement Center, enter into subcontracts with third parties for the performance of any part of the Contractor's duties and obligations. Any such Exchange approval may be rescinded for reasonable cause. The Contractor is responsible and liable for the proper performance of and the quality of any work performed by any and all subcontractors. The Exchange reserves the right to reject or refuse admission to any subcontractor personnel whose workmanship, in the reasonable judgment of the Exchange, is deemed to be substandard. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to the Exchange for any breach in performance of the Contractor's duties.
- 16.2** The Contractor warrants and agrees that any subcontract resulting from its performance under the terms and conditions of the Agreement shall include a provision that the subcontractor shall abide by the terms and conditions of the Agreement, as well as all other applicable federal and state laws, rules, and regulations pertinent hereto that have been or may hereafter be established. Also, the Contractor warrants and agrees that all subcontracts shall include a provision that the subcontractor shall indemnify and hold harmless the Exchange to the same extent as provided in the Agreement. Any Agreement between the Contractor and its subcontractors shall require the subcontractors to adhere to the same performance standards and other standards required of the Contractor.
- 16.3** When a subcontractor ultimately performs all of the services that a contractor has agreed to provide and the prime contractor only handles the invoicing of expenditures, then the prime contractor's role becomes that of a fiscal agent because it is merely administrative in nature, and does not provide a commercially useful function. It is unacceptable to use fiscal agents in this manner because the agency is paying unnecessary administrative costs. Contractors may not subcontract 100 percent of the tasks of this SOW.

Agreement 11-E9\_\_\_\_

California Health Benefit Exchange/(Enter Contractor's Name)

**EXHIBIT B  
(Standard Agreement)**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

(Standard contract language)

A. Invoicing and Payment

1. The maximum amount payable under this agreement shall not exceed (Enter **Contract Total**). Shown below are the amounts that cannot be exceeded for each state fiscal year.

(20xx/20xx: \$ xx,xxx)

(20xx/20xx: \$ xx,xxx)

2. (This language changes depending on how the Contractor will be reimbursed for services, e.g., Flat Fee or Hourly Rate.) For services satisfactorily rendered, and upon receipt and approval of the invoice(s), the State, agrees to pay the Contractor for said services at an hourly rate of \$xxx.00 per hour.

The Contractor shall submit an invoice supported by brief progress which summarizes both completed tasks and work in progress toward all contract deliverables.

3. (Standard contract language.) Invoices shall include the Agreement Number and CFDA Code 93.525 and shall be submitted in triplicate not more frequently than monthly in arrears to:

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

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

(Standard contract language)

B. State Budget Contingency Clause

1. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, 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 Budget Act 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.

(Standard contract language)

**C. For Contracts 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.

(Standard contract language)

**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.

(Standard contract language)

**E. Review**

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

(Standard contract language)

**F. Final Billing**

Invoices for services must be received by the State 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."

(Standard contract language)

**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 B ATTACHMENT I**

**Budget Detail**

The hours and dollars associated with each fiscal year (FY) are approximate and may be redirected between FYs upon agreement between the Contractor and the state without amending this Agreement. The total cost of the Agreement cannot exceed \$300,000.

**Note to Vendors: This table will be completed by Exchange with actual costs and hours upon contract award**

Proposed Staff Name	Sub-contractor Y/N	Hourly Rate	Number of Hours	Extended Cost	Total Cost (Add all Extended Costs)
			FY 11/12	FY 11/12	
TBD	TBD	\$ TBD	TBD	\$ TBD	\$ TBD

**(Standard Exhibit)**  
**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 directly 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:

- D. 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
- E. 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
- F. Accrue or result, or are alleged to accrue or result, to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work,

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

- G. 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
- H. 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.

**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, unless otherwise agreed to by the State in writing. 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, if not exact, percentage of recycled content, both post-consumer waste and secondary waste as defined in the Public Contract Code, Sections 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, Section 12209. Contractor may certify that the product contains zero recycled content.

**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 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.
- 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.

- 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.)

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.

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 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.

**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.

Agreement 11-E9\_\_\_\_

California Health Benefit Exchange/(Enter Contractor's Name)

**(Standard Exhibit)**  
**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.

**C. Debarment and Suspension**

For federally funded agreements, **Contractor certifies** that to the best of his/her knowledge and belief he/she and their principals or affiliates or any sub-contractor 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 sub-contractors 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).

**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.

**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**

To the extent applicable, 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. Insurance Requirements**

When Contractor submits a signed contract to the State, Contractor shall furnish to the State a certificate of insurance, stating that there is:

1. General liability insurance presently in effect for the Contractor of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined; and
2. Automobile liability, including non-owned auto liability, of not less than \$1,000,000 per occurrence for volunteers and paid employees providing services supported by this Agreement.

The certificate of insurance will include provisions a, b, and c, in their entirety:

- a. That the insurer will not cancel the insured's coverage without 30 days' prior written notice to the State.
- b. That the State of California, its officers, agents, employees, and servants are included as additional insured, but only insofar as the operations under this contract are concerned.
- c. That the State will not be responsible for any premiums or assessment on the policy.

Contractor agrees that the general and automobile liability insurance herein provided for shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, Contractor agrees to provide at least 30 days' prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one year. New certificates of insurance are subject to the approval of the Exchange, and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

The Contractor shall require its subcontractors/vendors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability and automobile liability including non-owned auto liability, and further, the Contractor shall require all of its subcontractors/vendors to hold the Contractor and the Exchange harmless. The subcontractors'/vendors' Certificate of Insurance shall also have the Contractor, not the State, as the certificate holder and additional insured. The Contractor shall maintain certificates of insurance for all its subcontractors/vendors.

The State will not provide for nor compensate Contractor for any insurance premiums or costs for any type or amount of insurance.

By signing this Agreement, the Contractor hereby warrants that it carries Workers' Compensation Insurance on all of its employees who will be engaged in the performance of this Agreement. If staff provided by the Contractor is defined as independent contractors, this clause does not apply.

**EXHIBIT E**  
**(Standard Agreement)**

**ADDITIONAL PROVISIONS**

(The provisions in this exhibit may change depending on need or contract type.)

**Intellectual Property Rights**

1. All deliverables as defined in the Scope 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.

**Confidentiality**

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

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.

**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.

## **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.

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