

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

327



FROM: Community Health Agency / Department of Public Health

SUBMITTAL DATE:
September 1, 2009

SUBJECT: Ratify Agreement 09-11333 with the California Department of Public Health (CDPH) and the Riverside County Community Health Agency, Department of Public Health, Disease Control Branch for the California Immunization Registry (CAIR) – Inland Empire Region.

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Ratify Agreement 09-11333 between the California Department of Public Health and the Community Health Agency, Department of Public Health in the amount of \$431,950 for the period of July 1, 2009 to June 30, 2010;
- 2) Direct the Auditor-Controller to adjust the FY 09/10 budget as detailed in the attached Schedule A; and
- 3) Authorize the Chairperson to sign three (3) originals of said Agreement on behalf of the County.

BACKGROUND: (Continued)

Attachments

BC:lc

Susan D. Harrington

Susan D. Harrington, Director of Public Health

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 431,950	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	Yes
	Annual Net County Cost:	\$ 0	For Fiscal Year:	09/10

SOURCE OF FUNDS: 100% State Grant funds from the Department of Public Health	Positions To Be Deleted Per A-30	<input checked="" type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *Debra Cournoyer*
Debra Cournoyer

County Executive Office Signature

FISCAL PROCEDURES APPROVED
ROBERT E. BYRD, AUDITOR-CONTROLLER
BY: *[Signature]* 9/14/09
SUSANA GARCIA-BOCAMENGA
Departmental Concurrence

FORM APPROVED COUNTY COUNSEL
BY: *[Signature]*
NEAL R. KIPNIS DATE

Dep't Recomm.: Consent Policy

Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: 9/30/08 item 3.29 | District: All | Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.25

(Continued)

BACKGROUND:

Since 2000, the California Department of Public Health has awarded local health departments local assistance funds for regional immunization registries. Riverside County has been partnering with San Bernardino Department of Public Health since July 2000 to run the VaxTrack Immunization Registry. In July 2009, the Immunization Registry transitioned from the VaxTrack software to the California Immunization Registry (CAIR) software and adopted a new name: CAIR Inland Empire Region. CAIR Inland Empire is an interagency project with the goal of improving the health of the community by assuring that all children receive appropriate preventive services, particularly immunizations. The goal of CAIR is to link all providers within each of the participating counties to a central database for a coordinated registry of immunization information on children. In Riverside County to date, the Immunization Registry has achieved 100% public provider participation and approximately 60% private provider participation. There are also more than 250 eligible schools and day care providers currently participating in the Immunization Registry.

Riverside County Community Health Agency, Department of Public Health has been awarded funding in the amount of \$431,950 to continue with the expansion and maintenance of the immunization registry within Riverside County. This is an on-going regional grant from the California Immunization Registry Program of the California Department of Public Health Immunization Branch. The grant is a combination of both State and Federal monies.

An estimated budget amount of \$256,150 was submitted for County Fiscal Year 2009/2010; Award 09-11333 increases this amount by \$175,800, for total grant amount of \$ 431,950.

Additional positions (1 Health Education Assistant II and 2 Health Services Assistants) were funded to assist with provider recruitment and retention. Pursuant to Board Policy A-30, the positions will be eliminated once funding is exhausted.

**Schedule A
BUDGET ADJUSTMENTS
COMMUNITY HEALTH AGENCY
DEPARTMENT OF PUBLIC HEALTH
FISCAL YEAR 2009/2010**

INCREASE IN APPROPRIATIONS

10000-4200100000-510040	Salaries	\$ 107,931
10000-4200100000-518100	Budgeted Benefits	\$ 47,115
10000-4200100000-523680	Office Equip Non Fixed Assets	\$ 4,050
10000-4200100000-523760	Postage – Mailing	\$ 8,756
10000-4200100000-523840	Computer Equipment – Software	\$ 6,948
10000-4200100000-527840	Training – Education/Tuition	\$ 1,000

TOTAL INCREASE IN APPROPRIATIONS **\$ 175,800**

INCREASE IN ESTIMATED REVENUE

10000-4200100000-751680	CA – State Grant Revenue	\$ 175,800
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TOTAL INCREASE IN ESTIMATED REVENUE **\$ 175,800**

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213 (CDPH Rev 12/08)

REGISTRATION NUMBER	AGREEMENT NUMBER
	09-11333

1. This Agreement is entered into between the State Agency and the Contractor named below:
 STATE AGENCY'S NAME (Also referred to as CDPH or the State)
 California Department of Public Health

CONTRACTOR'S NAME (Also referred to as Contractor)
 County of Riverside

2. The term of this Agreement is: July 1, 2009 through June 30, 2010

3. The maximum amount of this Agreement is: \$ 431,950
 Four Hundred Thirty-One Thousand, Nine Hundred Fifty Dollars

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

Exhibit A – Scope of Work	5 pages
Exhibit B – Budget Detail and Payment Provisions	3 pages
Exhibit B, Attachment I – Budget	1 page
Exhibit C * – General Terms and Conditions	<u>GTC 307</u>
Exhibit D (F) – Special Terms and Conditions (Attached hereto as part of this agreement)	26 pages
Exhibit E – Additional Provisions	1 page
Exhibit F – Contractor's Release	1 page
Exhibit G – Travel Reimbursement Information	2 pages
Exhibit H – Information Confidentiality and Security Requirements	4 pages
Exhibit I – SR1: Information Systems Security Requirements for Projects	24 pages

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

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

CONTRACTOR	
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) County of Riverside	
BY (Authorized Signature) 	DATE SIGNED (Do not type)
PRINTED NAME AND TITLE OF PERSON SIGNING Jeff Stone, Chairman, Board of Supervisors	
ADDRESS 4065 County Circle Drive, Riverside, CA 92503	
STATE OF CALIFORNIA	
AGENCY NAME California Department of Public Health	
BY (Authorized Signature) 	DATE SIGNED (Do not type)
PRINTED NAME AND TITLE OF PERSON SIGNING Sandra Winters, Chief, Contracts and Purchasing Services Section	
ADDRESS 1501 Capitol Avenue, Suite 71.5178, MS 1802, PO Box 997377 Sacramento, CA 95899-7377	

FORM APPROVED BY COUNTY COUNSEL
 BY: NEAL R. KIPNIS
 DATE:

California Department of General Services Use Only
<input type="checkbox"/> Exempt per:

EXHIBIT A
Scope of Work

1. Service Overview

Contractor agrees to provide to the California Department of Public Health (CDPH) the services described herein:

The primary purpose of this contract is to provide immunization subvention contract funds to public local health departments for the operation of local and/or regional automated immunization information and reminder systems. The basic functions of the systems to be supported with these funds include: recruitment and support of medical providers and other parties with immunization records; rapid collection and transfer of immunization information among participants; notifications to clients and/or providers concerning immunizations that are due; and calculation of immunization coverage rates based on patient records in the database.

2. Service Location

The services shall be performed at applicable facilities in the County of Riverside.

3. Service Hours

The services shall be provided during County working hours and days.

4. Project Representatives

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

California Department of Public Health

John Hetsko
Telephone: (619) 692-8423
Fax: (619) 692-5534
Email: john.hetsko@sdcounty.ca.gov

County of Riverside

Barbara Cole, Director
Telephone: (951) 354-1400
Fax: (951) 354-1475
Email: lcherry@co.riverside.ca.us

B. Direct all inquiries to:

California Department of Public Health

Immunization Branch
Attention: Robina Escalada
850 Marina Bay Pkwy., 2nd Floor
Richmond, CA 94804

Telephone: (510) 620-3729
Fax: (510) 620-3774
Email: robina.escalada@cdph.ca.gov

County of Riverside

County of Riverside
Attention: Barbara Cole, Director
4065 County Circle Drive
Riverside, CA 92503

Telephone: (951) 354-1400
Fax: (951) 354-1475
Email: lcherry@co.riverside.ca.us

C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

EXHIBIT A
Scope of Work

5. Services To Be Performed

The Contractor must agree to the following inclusive objectives and conduct the following activities. Please note many of these services to be performed are also objectives and activities required by the Federal Government and are conditions for funding of the California Immunization Program and/or statutory requirements of State and local health departments. The level of subvention contract funding to be awarded is not represented as sufficient for support of all the required activities; a significant amount of local support and funding is expected. Subvention contract funds must not be used to supplant (i.e., replace) local funds currently being expended for routine immunization services and activities.

A. Objectives:

- 1) Continue implementation of regional automated immunization information and reminder system to ensure adequate immunization of all children in the community, whether served by private or publicly-funded providers.
- 2) Involve and educate public and private immunization providers throughout the local area in planning, implementation and use of the registry to increase immunization rates
- 3) Work with other legislatively authorized registry users in contractor's region, in addition to immunization providers, to plan and implement participation in the registry, in accordance with the provisions of H&S Code Section 120440.
- 4) Continue to implement specific plans for protecting the security of the system and the integrity and confidentiality of shared data on the automated immunization system.
- 5) Provide project information upon request to the CDPH Immunization Branch (e.g., semi-annual project reports, CDC immunization information system annual report [IISAR]) on implementation of the regional automated system to the California Immunization Registry (CAIR) in order to contribute to the overall development of the statewide system.
- 6) Continue to participate in CAIR Regional Operations Committee with other CAIR grantees to develop intra-network capabilities and share immunization information.

B. Specific CAIR Activities

- 1) Planning and Implementation – Timeline July 1, 2009 through June 30, 2010
 - a. Complete development and execution of regional governance procedures and inter-county agreements.
 - b. Identify target population(s) and prioritize entry into registry beginning with infants and children under age 6 years.
 - c. Determine estimated fiscal/resource needs of registry and develop a plan to meet them.

EXHIBIT A
Scope of Work

- d. Allow providers and other legislatively authorized users, as appropriate, to access client's immunization history and immunization status in registry.
 - e. Provide ongoing support to participating immunization providers and other legislatively authorized users, including registry function and usage guidelines training and/or consultation
 - f. Maintain regional help desk to support software users in whole region. Report summaries of help desk call trends when requested by CDPH. Adhere to standardized help desk policies and procedures.
 - g. In conjunction with annual Communicable Disease Control and Prevention (CDC) immunization registry annual reports perform annual immunization coverage assessments of clients under 6 years of age.
 - h. Utilize statewide standardized materials for education, training and provider recruitment. Do not support the development of these materials by individual jurisdictions within the region.
 - i. Meet or exceed regional provider and patient recruitment goals as outlined in the 2009-2010 CAIR Business Plan, using quarterly performance metrics to monitor progress.
- 2) Community-wide Participation – Timeline July 1, 2009 through June 30, 2010
- a. Assess current capacity of health care providers in region to effectively participate in registry in regard to automated equipment and to staffing and training.
 - b. Create advisory group(s) with required representation from the local health department, immunization and/or Maternal and Child Health (MCH) programs, non-profit Community Health Centers (CHC), and at least three private immunization providers. Recommended inclusions are: at least one Health Maintenance Organization (HMO) that is a major immunization provider, provide input from schools, local Women, Infant, and Children (WIC) agencies, lay community groups, and technical advisers.
 - c. Include providers from the local health department, non-profit CHC, and the private medical sector.
- 3) Security, Data Integrity, and Confidentiality - Timeline July 1, 2009 through June 30, 2010
- a. Ensure the security of any hardware maintained by local or regional staff to support the registry
 - b. Maintain written confidentiality procedures, in accordance with the California Department of Public Health, Immunization Branch, CAIR Regional Operations Committee guidelines.
 - c. Conduct quality control of data, identify sources of incorrect information, correct inaccurate information and develop procedures to prevent inclusion of incorrect information.

EXHIBIT A
Scope of Work

- c. Require providers to utilize the standardized notice to parents and patients to inform them of their right to choose if they want immunization records shared in the California Immunization Registry.
 - d. Notify CDPH promptly when unauthorized use occurs.
 - e. Upon request by CDPH Immunization Branch, to have at least one back-up copy (production version) of the regional registry database stored at a frequency and location determined by CDPH Immunization Branch. The regional registry is encouraged to maintain additional remote or on-site copies of the regional registry database.
- 4) Sharing Regional Project Information - Timeline July 1, 2009 through June 30, 2010
- a. Allow CDPH site visits and inspections of registry procedures, protocols, software, forms, etc., developed wholly or partly with funding from this agreement and share these materials with CDPH to assist registries throughout the state.
 - b. Allow CDPH Immunization Branch staff to attend regional registry meetings without restriction upon request.
- 5) Internetworking and Coordination with CAIR - Timeline July 1, 2008 through June 30, 2009
- a. Agree to exchange immunization information with CAIR, to maintain statewide standards for sharing information, and to adhere to protocols for electronic transactions. This requires no additional actions if using CAIR software.
 - b. At least one regional registry representative must be willing to assist in planning CAIR statewide conferences and participating in statewide committees
 - c. Respond to queries from other regions for immunization information.
 - d. Provide CDPH with non-identified individual or aggregate client immunization data for immunization coverage assessment by CDPH at up to quarterly intervals.

C. Required Reports

1) Reports of Regional Program Progress and Activities

In accordance with the guidelines and format provided by the Immunization Branch, the Contractor shall submit to the CAIR Coordinator, at the Branch address identified in paragraph 3 within C. Required Reports, progress reports (at least one per year by January 31st), quarterly performance metrics, and other reports as required for registry development and maintenance. In addition to the written report the Contractor and Project Liaison, or his designee, may meet and discuss the above matters in person.

EXHIBIT A
Scope of Work

- 2) Contractor agrees that itemized personnel positions listed in the *Application for Immunization Project Subvention Funds* shall not be subject to Contractor's personnel policy decisions to refrain from filling vacant positions.
- 3) All reports and other written communications are to be addressed and delivered to the CDPH Immunization Branch, 850 Marina Bay Parkway, 2nd Floor, Richmond, California, 94804.
- 4) The State reserves the right to use and reproduce all reports and data produced and delivered pursuant to this Contract and reserves the right to authorize others to use or reproduce such materials, provided that the confidentiality of patient information and records are protected pursuant to California State laws and regulations.

Exhibit B
Budget Detail and Payment Provisions

1. Invoicing and Payment

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

California Department of Public Health
Immunization Branch
Attn: Robina Escalada
850 Marina Bay Pkwy., Bldg. P, 2nd Floor
Richmond, CA 94804

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

2. Budget Contingency Clause

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

3. Prompt Payment Clause

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

Exhibit B
Budget Detail and Payment Provisions

4. Timely Submission of Final Invoice

- A. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following the expiration or termination date of this agreement, unless a later or alternate deadline is agreed to in writing by the program contract manager. Said invoice should be clearly marked "Final Invoice", thus indicating that all payment obligations of the State under this agreement have ceased and that no further payments are due or outstanding.
- B. The State may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written State approval of an alternate final invoice submission deadline. Written State approval shall be sought from the program contract manager prior to the expiration or termination date of this agreement.
- C. The Contractor is hereby advised of its obligation to submit, with the final invoice, a "**Contractor's Release (Exhibit F)**" acknowledging submission of the final invoice to the State and certifying the approximate percentage amount, if any, of recycled products used in performance of this agreement.

5. Expense Allowability / Fiscal Documentation

- A. Invoices, received from a Contractor and accepted and/or submitted for payment by the State, shall not be deemed evidence of allowable agreement costs.
- B. Contractor shall maintain for review and audit and supply to CDPH upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of expense allowability.
- C. If the allowability or appropriateness of an expense cannot be determined by the State because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, all questionable costs may be disallowed and payment may be withheld by the State. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.
- D. If travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. For more information on allowable travel and per diem expenses and required documentation, see Exhibit G entitled, "Travel Reimbursement Information".

6. Budget Flexibility

Subject to the prior review and approval of the contract manager, line item shifts of up to \$25,000 or ten percent of the annual contract total, whichever is less, may be made up to a cumulative maximum of \$25,000 or 10%, whichever is less, for all line item shifts over the life of the contract. There must be a substantial business justification for any shifts made. Fund shifts which increase Indirect, Overhead or General Expense line items are prohibited. Line item shifts may be proposed/requested by either the California Department of Public Health or the Contractor in writing and must not increase or decrease the

Exhibit B
Budget Detail and Payment Provisions

total contract amount allocated. Any line item shifts must be approved in writing by the Deputy Director of the Division of Communicable Disease Control, or his or her designee, and must be sent to the Contracts Office within 10 days of approval for inclusion in contract folder. If the contract is formally amended, any line item shifts agreed to by the parties must be included in the amendment.

7. Additional Budget Provisions

- A. The total amount of the contract will be indicated as either some part, or all, of the total operations budget. If the total amount of the contract is less than the total operations budget, the Contractor will be responsible for providing the difference between the total amount of the contract and the total operations budget. Further, all invoices to the State which request reimbursements for positions included in the Contractor's *Application for Immunization Project Subvention Funds* submitted by the Contractor on May 6, 2009 shall include the name and position title of the persons that have performed in these positions.
- B. The Contractor shall provide for any personnel or operating expenses that are necessary to meet the provisions included herein but are not provided for in the Budget included as Exhibit "B" Attachment I.

Exhibit B, Attachment I
Budget

Personnel	% of time or hours on project	Monthly salary range or hourly rate	Total
1 - Program Coordinator II	75%	\$4,332 - \$5,805	\$52,245.00
1 - Health Educator	100%	\$3,454 - \$5,155	\$44,995.00
1 - Health Education Assistant I/II	100%	\$2,567 - \$3,830	\$40,081.00
1 - Office Assistant III	100%	\$2,171 - \$2,978	\$35,731.00
1 - Health Services Assistant	70%	\$2,061 - \$2,827	\$23,744.00
1 - Health Services Assistant	100%	\$2,061 - \$2,827	\$33,920.00
1 - Health Services Assistant	100%	\$2,061 - \$2,827	\$33,920.00
Total Personnel			\$264,636.00
Fringe Benefits (40% of Personnel)			\$105,854.00
Operating Expenses or General Expenses			
Office Supplies			\$46,660.00
Printing/Health Education Materials			\$8,000.00
Other			\$0.00
Equipment Expenses			\$0.00
Travel			\$6,800.00
Subcontracts			\$0.00
Other Costs			\$0.00
Indirect Costs (0%)			<u>\$0.00</u>
Total Budget			\$431,950.00

Special Terms and Conditions

(For State funded subvention, local assistance and direct service contracts and grant agreements)

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

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

The terms "California Department of Public Health" and "CDPH" shall have the same meaning and refer to the California State agency that is a party to this Agreement.

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

Index of Special Terms and Conditions

1. Travel and Per Diem Reimbursement
2. Procurement Rules
3. Equipment Ownership / Inventory / Disposition
4. Subcontract Requirements
5. Income Restrictions
6. Audit and Record Retention
7. Site Inspection
8. Intellectual Property Rights
9. Prior Approval of Training Seminars, Workshops, or Conferences
10. Confidentiality of Information
11. Documents, Publications and Written Reports
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15. Payment Withholds
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17. Officials Not to Benefit
18. Four-Digit Date Compliance
19. Union Organizing
20. Contract Uniformity (Fringe Benefit Allowability)
21. Prohibited Use of State Funds for Software
22. Darfur Contracting Act

DPH sided

1. Travel and Per Diem Reimbursement

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

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

2. Procurement Rules

(Applicable to all agreements in which equipment, property, commodities and/or supplies are furnished by CDPH or expenses for said items are reimbursed with state funds.)

a. Equipment definitions

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

- (1) **Major equipment:** A tangible or intangible item having a base unit cost of \$5,000 or more with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
 - (2) **Minor equipment/property:** A tangible item having a base unit cost of less than \$5,000 with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement.
- b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 2. Paragraph c of Provision 2 shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.
- c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this Agreement.

- (1) Equipment purchases shall not exceed \$50,000 annually.

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

- (2) All equipment purchases are subject to Paragraphs d through h of Provision 2. Paragraph b of Provision 2 shall also apply, if equipment purchases are delegated to subcontractors that are either a government or public entity.

- (3) Nonprofit organizations and commercial businesses, shall use a procurement system that meets the following standards:
- (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement contract in which, to his or her knowledge, he or she has a financial interest.
 - (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
 - (c) Procurements shall be conducted in a manner that provides for all of the following:
 - [1] Avoid purchasing unnecessary or duplicate items.
 - [2] Equipment solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
 - [3] Take positive steps to utilize small and veteran owned businesses.
 - d. Unless waived or otherwise stipulated in writing by CDPH, prior written authorization from the appropriate CDPH Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by CDPH, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
 - e. In special circumstances, determined by CDPH (e.g., when CDPH has a need to monitor certain purchases, etc.), CDPH may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. CDPH reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that CDPH determines to be unnecessary in carrying out performance under this Agreement.
 - f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
 - g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
 - h. CDPH may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 2 by giving the Contractor no less than 30 calendar days written notice.

3. Equipment Ownership / Inventory / Disposition

(Applicable to agreements in which equipment and/or property is furnished by CDPH and/or when said items are purchased or reimbursed with state funds.)

- a. Wherever the terms equipment and/or property are used in Provision 3, the definitions in Provision 2, Paragraph a, shall apply.

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

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

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

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

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
- (b) Submit the inventory report to CDPH according to the instructions appearing on the form or issued by the CDPH Program Contract Manager.
- (c) Contact the CDPH Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by CDPH's Asset Management Unit.

- b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
- c. Unless otherwise stipulated, CDPH shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.
- d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.

- (1) In administering this provision, CDPH may require the Contractor and/or Subcontractor to repair or replace, to CDPH's satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the CDPH Program Contract Manager.

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

final inventory report. At the termination or conclusion of this Agreement, CDPH may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different CDPH agreement.

g. Motor Vehicles

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

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

Automobile Liability Insurance

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the CDPH Program Contract Manager. The certificate of insurance shall identify the CDPH contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to CDPH.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the

following provisions:

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

4. Subcontract Requirements

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

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
- (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
 - (2) The State may identify the information needed to fulfill this requirement.
 - (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:
 - (a) A local governmental entity or the federal government,
 - (b) A State college or university from any State,
 - (c) A Joint Powers Authority,
 - (d) An auxiliary organization of a California State University or a California community college,
 - (e) A foundation organized to support the Board of Governors of the California Community Colleges,
 - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
 - (g) Entities of any type that will provide subvention aid or direct services to the public,
 - (h) Entities and/or service types identified as exempt from advertising in State Contracting Manual 5.80. View this publication at the following Internet address:

<http://www.ols.dgs.ca.gov/Contract+Manual/Chapters4through6.htm>.

- b. CDPH reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.
- (1) Upon receipt of a written notice from CDPH requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by CDPH.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of CDPH. CDPH may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by CDPH.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by CDPH, make copies available for approval, inspection, or audit.
- e. CDPH assumes no responsibility for the payment of subcontractors used in the performance of the Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:
- "(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from CDPH to the Contractor, to permit CDPH or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
- i. Unless otherwise stipulated in writing by CDPH, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 17, 21, and/or other numbered provisions herein that are deemed applicable.

5. Income Restrictions

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

6. Audit and Record Retention

(Applicable to agreements over \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purposes of this provision.

- b. The Contractor's and/or Subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that CDPH, the Department of General Services, the Bureau of State Audits, or their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896).
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
 - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
 - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.
- f. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

7. Site Inspection

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

8. Intellectual Property Rights

a. Ownership

- (1) Except where CDPH has agreed in a signed writing to accept a license, CDPH shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks,

applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

- (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of CDPH's Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of CDPH's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of CDPH. **Except as otherwise set forth herein, neither the Contractor nor CDPH shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to CDPH, Contractor agrees to abide by all license and confidentiality restrictions applicable to CDPH in the third-party's license agreement.
- (4) Contractor agrees to cooperate with CDPH in establishing or maintaining CDPH's exclusive rights in the Intellectual Property, and in assuring CDPH's sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to CDPH all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or CDPH and which result directly or indirectly from this Agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with CDPH in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce CDPH's Intellectual Property rights and interests.

b. Retained Rights / License Rights

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

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

c. Copyright

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Section a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to CDPH to any work product made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement, shall include CDPH's notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2006, etc.], California Department of Public Health. This material may not be reproduced or disseminated without prior written permission from the California Department of Public Health." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Patent Rights

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

e. Third-Party Intellectual Property

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

f. Warranties

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

g. Intellectual Property Indemnity

- (1) Contractor shall indemnify, defend and hold harmless CDPH and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of CDPH's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. CDPH reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against CDPH.
- (2) Should any Intellectual Property licensed by the Contractor to CDPH under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve CDPH's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to CDPH. CDPH shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for CDPH to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, CDPH shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate CDPH for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges CDPH would suffer irreparable harm in the event of such breach and agrees CDPH shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

h. Federal Funding

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

i. Survival

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

9. Prior Approval of Training Seminars, Workshops or Conferences

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

10. Confidentiality of Information

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

11. Documents, Publications and Written Reports

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

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

12. Dispute Resolution Process

- a. A Contractor grievance exists whenever there is a dispute arising from CDPH's action in the administration of an agreement. If there is a dispute or grievance between the Contractor and CDPH, the Contractor must seek resolution using the procedure outlined below.
 - (1) The Contractor should first informally discuss the problem with the CDPH Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance

shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.

- (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.
- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Subchapter 2.5, commencing with Section 251, California Code of Regulations.)
- c. Disputes arising out of an audit, examination of an agreement or other action not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the Agreement, shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22, California Code of Regulations.
- d. Unless otherwise stipulated in writing by CDPH, all dispute, grievance and/or appeal correspondence shall be directed to the CDPH Program Contract Manager.
- e. There are organizational differences within CDPH's funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the CDPH Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

13. Financial and Compliance Audit Requirements

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (See H&S Code Section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
 - (1) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement;*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

- (2) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement,*** the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
- (3) ***If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133) and expends \$500,000 or more in Federal awards,*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
- (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
 - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
- (4) If the Contractor submits to CDPH a report of an audit other than an OMB A-133 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$500,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the CDPH program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the CDPH Program Contract Manager shall forward the audit report to CDPH's Audits and Investigations Unit if the audit report was submitted under Section 13c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The CDPH program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this Agreement limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.

14. Novation Requirements

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

15. Payment Withholds

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

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

16. Performance Evaluation

(Not applicable to grant agreements.)

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

17. Officials Not to Benefit

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

18. Four-Digit Date Compliance

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

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

19. Union Organizing

(Applicable only to grant agreements.)

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

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.

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

20. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

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

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

- (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

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

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

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

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

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

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

21. Prohibited Use of State Funds for Software

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

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

22. Darfur Contracting Act

Pursuant to the Darfur Contracting Act of 2008 (Public Contract Code (PCC) section 10475 et seq.), in order to be eligible to contract with the State of California, Contractor certifies either: 1) that it is not a scrutinized company as defined in PCC section 10476; or 2) that it is a scrutinized company that has obtained written permission from the Department of General Services (DGS) to bid on or submit a proposal for a contract with a state agency for goods or services pursuant to PCC section 10477(b) (PCC section 10478). Contractor acknowledges the penalties for false certification set forth in PCC section 10479. If Contractor has obtained written permission from the DGS pursuant to PCC section 10477(b), a copy of the written permission must be submitted to the CDPH Contract Management Unit prior to execution of this agreement or amendment.

Exhibit E
Additional Provisions

1. Cancellation / Termination

- A. This agreement may be cancelled by CDPH **without cause** upon 30 calendar days advance written notice to the Contractor.
- B. CDPH reserves the right to cancel or terminate this agreement immediately for cause. The Contractor may submit a written request to terminate this agreement only if CDPH substantially fails to perform its responsibilities as provided herein.
- C. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of this agreement.
- D. Agreement termination or cancellation shall be effective as of the date indicated in CDPH's notification to the Contractor. The notice shall stipulate any final performance, invoicing or payment requirements.
- E. Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent agreement costs.
- F. In the event of early termination or cancellation, the Contractor shall be entitled to compensation for services performed satisfactorily under this agreement and expenses incurred up to the date of cancellation and any non-cancelable obligations incurred in support of this agreement.

2. Freeze Exemptions

(Applicable only to local government agencies.)

- A. Contractor agrees that any hiring freeze adopted during the term of this contract shall not be applied to the positions funded, in whole or part, by this contract.
- B. Contractor agrees not to implement any personnel policy, which may adversely affect performance or the positions funded, in whole or part, by this contract.
- C. Contractor agrees that any travel freeze or travel limitation policy adopted during the term of this contract shall not restrict travel funded, in whole or part, by this contract.
- D. Contractor agrees that any purchasing freeze or purchase limitation policy adopted during the term of this contract shall not restrict or limit purchases funded, in whole or part, by this contract.

Contractor's Release

Instructions to Contractor:

With final invoice(s) submit one (1) original and one (1) copy. The original must bear the original signature of a person authorized to bind the Contractor. The additional copy may bear photocopied signatures.

Submission of Final Invoice

Pursuant to contract number 09-11333 entered into between the State of California Department of Public Health (CDPH) and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via invoice number(s) _____, in the amount(s) of \$ _____ and dated _____.
If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

Release of all Obligations

By signing this form, and upon receipt of the amount specified in the invoice number(s) referenced above, the Contractor does hereby release and discharge the State, its officers, agents and employees of and from any and all liabilities, obligations, claims, and demands whatsoever arising from the above referenced contract.

Repayments Due to Audit Exceptions / Record Retention

By signing this form, Contractor acknowledges that expenses authorized for reimbursement does not guarantee final allowability of said expenses. Contractor agrees that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment will be refunded to the State.

All expense and accounting records related to the above referenced contract must be maintained for audit purposes for no less than three years beyond the date of final payment, unless a longer term is stated in said contract.

Recycled Product Use Certification

By signing this form, Contractor certifies under penalty of perjury that a minimum of 0% unless otherwise specified in writing of post consumer material, as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether it meets the requirements of Public Contract Code Section 12209. Contractor specifies that printer or duplication cartridges offered or sold to the State comply with the requirements of Section 12156(e).

Reminder to Return State Equipment/Property (If Applicable)

(Applies only if equipment was provided by CDPH or purchased with or reimbursed by contract funds)

Unless CDPH has approved the continued use and possession of State equipment (as defined in the above referenced contract) for use in connection with another CDPH agreement, Contractor agrees to promptly initiate arrangements to account for and return said equipment to CDPH, at CDPH's expense, if said equipment has not passed its useful life expectancy as defined in the above referenced contract.

Patents / Other Issues

By signing this form, Contractor further agrees, in connection with patent matters and with any claims that are not specifically released as set forth above, that it will comply with all of the provisions contained in the above referenced contract, including, but not limited to, those provisions relating to notification to the State and related to the defense or prosecution of litigation.

ONLY SIGN AND DATE THIS DOCUMENT WHEN ATTACHING TO THE FINAL INVOICE

Contractor's Legal Name (as on contract): County of Riverside

Signature of Contractor or Official Designee: _____ Date: _____

Printed Name/Title of Person Signing: _____

CDPH Distribution: Accounting (Original) Program

Travel Reimbursement Information

(Mileage Decrease Effective 1/1/09)

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

(1) Lodging (with receipts*):

Travel Location / Area	Reimbursement Rate
Statewide (excluding the counties identified below)	\$ 84.00 plus tax
Counties of Los Angeles and San Diego	\$110.00 plus tax
Counties of Alameda, San Francisco, San Mateo, and Santa Clara	\$140.00 plus tax

Reimbursement for actual lodging expenses that exceed the above amounts may be allowed with the advance approval of the Deputy Director of the California Department of *Public Health (CDPH)* or his or her designee. Receipts are required.

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

- (2) Meal/Supplemental Expenses (with or without receipts): With receipts, the contractor will be reimbursed actual amounts spent up to the maximum for each full 24-hour period of travel.

Meal / Expense	Reimbursement Rate
Breakfast	\$ 6.00
Lunch	\$ 10.00
Dinner	\$ 18.00
Incidental expenses	\$ 6.00

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

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

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

- For transportation expenses, the contractor must retain receipts for parking; taxi, airline, bus, or rail tickets; car rental; or any other travel receipts pertaining to each trip for attachment to an invoice as substantiation for reimbursement. Reimbursement may be requested for commercial carrier fares; private car mileage; parking fees; bridge tolls; taxi, bus, or streetcar fares; and auto rental fees when substantiated by a receipt.
- Note on use of autos:** If a contractor uses his/her or a company car for transportation, the rate of reimbursement will be **55 cents** maximum per mile. If a contractor uses his/her or a company car "in lieu of" airfare, the air coach fare will be the maximum paid by the State. The contractor must provide a cost comparison upon request by the State. Gasoline and routine automobile repair expenses are not reimbursable.
- The contractor is required to furnish details surrounding each period of travel. Travel expense reimbursement detail may include, but not be limited to: purpose of travel, departure and return times, destination points, miles driven, mode of transportation, etc. Reimbursement for travel expenses may be withheld pending receipt of adequate travel documentation.
- Contractors are to consult with the program with which the contract is held to obtain specific invoicing procedures.

Per Diem Reimbursement Guide

Length of travel period	This condition exists...	Allowable Meal(s)
Less than 24 hours	Trip begins at or before 6 a.m. and ends at or after 9 a.m.	Breakfast may be claimed.
Less than 24 hours	Trip begins at or before 4 p.m. and ends at or after 7 p.m.	Dinner may be claimed.
<i>Contractor may not claim lunch or incidentals on one-day trips. When trips are less than 24 hours and there's no overnight stay, meals claimed are taxable.</i>		
24 hours	Trip begins at or before 6 a.m.	Breakfast may be claimed.
24 hours	Trip begins at or before 11 a.m.	Lunch may be claimed.
24 hours	Trip begins at or before 5 p.m.	Dinner may be claimed.
More than 24 hours	Trip ends at or after 8 a.m.	Breakfast may be claimed.
More than 24 hours	Trip ends at or after 2 p.m.	Lunch may be claimed.
More than 24 hours	Trip ends at or after 7 p.m.	Dinner may be claimed.
<i>Contractor may not claim meals provided by the State, meals included in hotel expenses or conference fees, meals included in transportation costs such as airline tickets, or meals that are otherwise provided. Snacks and continental breakfasts such as rolls, juice, and coffee are not considered to be meals.</i>		

Exhibit H
Information Confidentiality and Security Requirements

1. **Definitions.** For purposes of this Exhibit, the following definitions shall apply:
 - A. **Public Information:** Information that is not exempt from disclosure under the provisions of the California Public Records Act (Government Code sections 6250-6265) or other applicable state or federal laws.
 - B. **Confidential Information:** Information that is exempt from disclosure under the provisions of the California Public Records Act (Government Code sections 6250-6265) or other applicable state or federal laws.
 - C. **Sensitive Information:** Information that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive Information may be either Public Information or Confidential Information. It is information that requires a higher than normal assurance of accuracy and completeness. Thus, the key factor for Sensitive Information is that of integrity. Typically, Sensitive Information includes records of agency financial transactions and regulatory actions.
 - D. **Personal Information:** Information that identifies or describes an individual, including, but not limited to, their name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. **It is CDPH's policy to consider all information about individuals private unless such information is determined to be a public record.**
2. **Nondisclosure.** The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure any Personal Information, Sensitive Information, or Confidential Information (hereinafter identified as PSCI), except for statistical information not identifying any such person.
3. The Contractor and its employees, agents, or subcontractors shall not use any PSCI for any purpose other than carrying out the Contractor's obligations under this Agreement.
4. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the CDPH Program Contract Manager all requests for disclosure of any PSCI not emanating from the person who is the subject of PSCI.
5. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the person who is the subject of PSCI, any PSCI to anyone other than CDPH without prior written authorization from the CDPH Program Contract Manager, except if disclosure is required by State or Federal law.
6. The Contractor shall observe the following requirements:
 - A. **Safeguards.** The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PSCI, including electronic PSCI that it creates, receives, maintains, uses, or transmits on behalf of CDPH. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and

Exhibit H
Information Confidentiality and Security Requirements

complexity of the Contractor's operations and the nature and scope of its activities, including at a minimum, the safeguards set forth in Exhibit I, the SR1 CDPH-ISO Project Requirements.

- B. **Security Officer.** The Contractor shall designate a Security Officer to oversee its data security program who will be responsible for carrying out its privacy and security programs and for communicating on security matters with CDPH.
- C. **Training.** The Contractor shall provide training on its data privacy and security policies at its own expense, to all its employees who assist in the performance of functions or activities on behalf of CDPH under this Agreement and use or disclose PSCI.
- 1) The Contractor shall require each employee who receives data privacy and security training to sign a certification, indicating the employee's name and the date on which the training was completed.
 - 2) The Contractor shall retain each employee's written certifications for CDPH inspection for a period of three years following contract termination.
- D. **Discovery and Notification of Breach.** The Contractor shall notify CDPH **immediately by telephone call plus email or fax** upon the discovery of breach of security of PSCI in computerized form if the PSCI was, or is reasonably believed to have been, acquired by an unauthorized person, **or within twenty-four (24) hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized use or disclosure of PSCI in violation of this Agreement, this provision, the law, or potential loss of confidential data affecting this Agreement. Notification shall be provided to CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Chief Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PSCI, notification shall be provided by calling the CDPH I.T. Service Desk. Contractor shall take:
- 1) Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment and
 - 2) Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
- E. **Investigation of Breach.** The Contractor shall immediately investigate such security incident, breach, or unauthorized use or disclosure of PSCI and within seventy-two (72) hours of the discovery, shall notify the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Chief Information Security Officer of:
- 1) What data elements were involved and the extent of the data involved in the breach,
 - 2) A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PSCI,
 - 3) A description of where the PSCI is believed to have been improperly transmitted, sent, or utilized,
 - 4) A description of the probable causes of the improper use or disclosure; and

Exhibit H
Information Confidentiality and Security Requirements

- 5) Whether Civil Code sections 1798.29 or 1798.82 or any other federal or state laws requiring individual notifications of breaches are triggered.
- F. **Written Report.** The Contractor shall provide a written report of the investigation to the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Chief Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure.
- G. **Notification of Individuals.** The Contractor shall notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and shall pay any costs of such notifications, as well as any costs associated with the breach. The CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Chief Information Security Officer shall approve the time, manner and content of any such notifications.
- H. **Affect on lower tier transactions.** The terms of this Exhibit shall apply to all contracts, subcontracts, and subawards, regardless of whether they are for the acquisition of services, goods, or commodities. The Contractor shall incorporate the contents of this Exhibit into each subcontract or subaward to its agents, subcontractors, or independent consultants.
7. **Contact Information.** To direct communications to the above referenced CDPH staff, the Contractor shall initiate contact as indicated herein. CDPH reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Exhibit or the Agreement to which it is incorporated.

Exhibit H
Information Confidentiality and Security Requirements

CDPH Program Contract Manager	CDPH Privacy Officer	CDPH Chief Information Security Officer
See the Scope of Work exhibit for Program Contract Manager	Privacy Officer Privacy Office, c/o Office of Legal Services California Department of Public Health P.O. Box 997377, MS 0506 Sacramento, CA 95899-7377 Email: privacy@cdph.ca.gov Telephone: (877) 421-9634	Chief Information Security Officer Information Security Office California Department of Public Health P.O. Box 997413, MS 6302 Sacramento, CA 95899-7413 Email: cdphiso@cdph.ca.gov Telephone: IT Service Desk (916) 440-7000 or (800) 579-0874



INFORMATION SECURITY OFFICE

Information Systems Security Requirements for Projects (ISO/SR1)

Version 3.9

October 2008

Revision History

Doc No / Rev No	Revision Date	Revised By	Description of Revision / Change
S19 / R1.5	1/10/2007	A. Lancashire CDHS	Reformatting changes
SR1 / R1.0	9/12/2007	M. Serapio DHCS, B. Kelsey CDPH	Updated to address new best practices (previous version had dependencies to best practices from pre-SOA), fill existing regulatory gaps, remove vendor dependencies, reword language to make applicable to COTS/MOTS applications, and re-designated document number and name.
SR1/v1.5	9/14/2007	I. Sanford DHCS	Various grammatical and definition changes. Clarification of terms and responsibilities.
SR1/v2.0	9/21/2007	I. Sanford DHCS	Post team review updates
SR1/v2.1	10/17/2007	J. Cleveland CDPH	2 nd team review comments/changes
SR1/V2.2	10/21/2007	J. Cleveland CDPH	Added Admin User ID and password section from Ian Sanford and Data Query section from Brett Kelsey.
SR1/V2.3	10/22/2007	J. Cleveland CDPH	Modifications to Admin User ID and password section and Data Query section.
SR1/V3.0	10/25/2007	J. Cleveland CDPH	Minor grammatical changes, removal of dynamic web links, and added COTS language in C.8.
SR1/V3.5	10/26/2007	J. Cleveland CDPH	Addition of Sections A.13, A.14, B.12, B.13, B.14, B.15, and B.16 for the purpose of covering Privacy, when used in conjunction with BAAs.
SR1/V3.6	12/24/2007	J. Cleveland CDPH	Edits based on feedback from project management personnel.
SR1/V3.7	1/03/2008	J. Cleveland CDPH	Edits based on final review of ISO office.
SR1/V3.8	06/01/2008	E. Lemke CDPH	Minor grammatical changes and minor format changes.
SR1/V3.9	10/31/2008	A. Begliomini CDPH	Added Privileged Account Management and Service Account Management sections. Address Project Security Approvals, Applications Security Approvals, and System Roles and Relationships sections from Scott Wright. Added minimum password age in password policy. Minor format changes. Added table of contents.

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<i>Revised:</i>	
<i>Title: Information Systems Security Requirements for Projects</i>	

IMPORTANT NOTE: If an exemption from any SR1 requirement is required, the SR1 Exemption Form in Appendix A must be filled out by the Project Manager or Contract Manager.

I. Purpose

This document provides the minimum security requirements, mandated by the Information Security Office (ISO) from projects governed and/or subject to the policies and standards of the California Department of Public Health (CDPH). Projects that intend to deploy systems/applications into the Department's system infrastructure or will utilize Department information system services are also subject to these minimum security requirements.

This document is intended to assist the Department and its service customers in understanding the criteria the Department will use when evaluating and certifying the system design and security features and protocols used by project solutions utilizing Department services. The security requirements herewith will also be used in conjunction with the Department ISO's compliance review program of its information system services consumers.

This document will serve as a universal set of requirements which must be met regardless of physical hosting location or entities providing operations and maintenance responsibility. These requirements do not serve any specific project nor do they prescribe any specific implementation technology.

II. Scope of Requirements

The information security requirements herein are organized in five categories (sections) and address at a minimum:

- Administrative/Management Safeguards
- Technical and Operational Safeguards
- Solution Architecture
- Documentation of Solution
- ISO Notifications and Approvals

III. Contact

Chief Information Security Officer
California Department of Public Health
Information Security Office
1615 Capitol Avenue
Sacramento, Ca 95814

IV. Information Systems Security Requirements

A. Administrative / Management Safeguards

1. Workforce Confidentiality Statement

All persons working with Department information must sign a Security and Confidentiality statement. The statement must include at a minimum; General Use, Security and Privacy safeguards, Unacceptable Use, Audit, and Enforcement policies. (Contact the ISO for the current version of the Security & Confidentiality form in use.)

The statement must be signed by the Project member prior to being granted access to the Department's information. The statement must be renewed annually.

2. Access Authorization

Project/Program must implement and document clear rules and processes for vetting and granting authorizations; and procedures for the supervision of workforce members who work with Department information or in locations where it might be accessed.

3. Access Authorization Maintenance

On at least a semi-annual basis, Project/Program will review and remove all authorizations for individuals who have left the department, transferred to another unit, or assumed new job duties within the Department.

4. Information System Activity Review

Project/Program must implement and document procedures to regularly review records of information system activity, such as audit logs, access reports, and security incident tracking reports.

5. Periodic System Security Review

All systems shall allow for periodic system security reviews that provide assurance that management, operations, personnel, and technical controls are functioning effectively and providing adequate levels of protection.

The reviews may include technical tools and security procedures such as virus scanners, vulnerability assessment products (which look for known security problems, configuration errors, and the installation of the latest hardware/software "patches"), and penetration testing.

6. Periodic System Log Review

All systems processing and/or storing Department information shall have a method or procedure in place to create and review system logs for unauthorized access. Logs may

be stored within the system or on a centralized logging server or service, and shall be maintained for a minimum of three years.

7. Business Impact Analysis

Project/Program will conduct annually a Business Impact Analysis of the application to determine the Maximum Acceptable Outage (MAO), cost of lost functionality, system component dependencies, business function dependencies, and business partner dependencies.

8. Change Control

All systems processing and/or storing Department information must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity, and availability of information.

For those systems running within the Department's environment and/or are consuming Department services, those systems shall comply with Department of Technology Services (DTS) and Department standards for change control process and procedures.

9. Incident Response

Project/Program will establish procedures for responding to an emergency or other occurrence (e.g., fire, vandalism, system failure, and natural disaster) that damages systems that contain electronic protected health information.

The emergency response procedures shall be added to the existing Operational Recovery Plan (ORP). The ORP shall address what to do if a computer system and/or the information files are violated, lost, damaged, or inaccessible.

10. Disaster Recovery

Project/Program will establish procedures that allow facility access in support of restoration of lost information under the ORP and emergency mode operations plan in the event of an emergency.

The restoration/recovery support procedures shall be added to the existing Operational Recovery Plan (ORP) to restore any loss of information and assure continuity of computing operations for support of the application and information.

Recovery procedures shall be developed using the appropriate template from the Department's ORP.

11. Emergency Mode Operation Plan

Project/Program will establish an Emergency Mode Operation Plan (EMO) to enable continuation of critical business processes for protection of the security of electronic

protected health information while operating in emergency mode. This plan shall be added to the existing ORP.

12. Periodic System Recovery Testing

All systems, as part of a new or existing project, shall allow for periodic system recovery testing. The period between tests should be defined as part of the project and be consistent with relevant department disaster recovery standards. Such testing should provide assurances that plans (Incident Response, Disaster Recovery, Emergency Mode Operation, and Data Backup) and controls (management, operations, personnel, and technical) are functioning effectively and providing adequate levels of protection during an incident, disaster, or breach.

13. Supervision of Data

Protected Health Information (PHI) in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk, or office. Unattended means that information is not being observed by an employee authorized to access the information. Department PHI in paper form shall not be left unattended at any time in vehicles or planes and shall not be contained in checked-in baggage on commercial airplanes.

14. Escorting Visitors

Visitors to areas where Department PHI is contained shall be escorted and Department PHI shall be kept out of sight while visitors are in the area.

B. Technical and Operational Safeguards

1. System Security Compliance

All Project systems shall comply with applicable Department security policies and requirements, as specified in the State Administrative Manual (SAM), Health Administrative Manual (HAM), HIPAA, Privacy Act, and any other applicable state or federal regulation. All security safeguards and precautions shall be subject to the approval of the Department ISO.

2. Virus Protection

All systems shall install and actively use comprehensive third-party virus protection software, and routinely update such software when updates are released. All security safeguards and precautions shall be subject to the approval of the Department ISO.

3. Patch Management

All systems shall install and actively use comprehensive third-party patch management program and routinely update system and application software when updates are released. All security safeguards and precautions shall be subject to the approval of the Department ISO.

4. Encrypted Electronic Transmissions

All information transmissions that contain confidential information must be encrypted end-to-end using an industry-recognized encryption standard. The electronic transport must utilize Secure Socket Layer (SSL) and Department information and confidential information shall be encrypted at the minimum of 128 bit AES (Advanced Encryption Standard) or 3DES (Triple Data Encryption Standard) if AES is unavailable. Equivalent or stronger algorithms may be used upon approval of the Department ISO.

5. Encrypted Data Storage

All confidential information must be encrypted when stored using a Department approved encryption standard. Confidential information shall be encrypted at the minimum of 128 bit AES (Advanced Encryption Standard) or 3DES (Triple Data Encryption Standard) if AES is unavailable. Equivalent or stronger algorithms may be used upon approval of the Department ISO.

6. Workstation / Laptop Encryption

All workstations and laptops that process and/or store Department information must be encrypted with a Department approved solution or a solution using a vendor product specified on the Department of General Services (DGS) California Strategic Sourced Initiative (CSSI) website.

7. Removable Media Encryption

All electronic files that contain Department information must be encrypted when stored on any removable media type device (i.e. USB thumb drives, floppies, CD/DVD, tape backup, etc.) with a Department approved solution or a solution using a vendor product specified on the Department of General Services (DGS) California Strategic Sourced Initiative (CSSI) website.

8. Secure Connectivity

All transmission and data-links between the information and application/system and DBMS and the DTS Wide Area Network (WAN) shall be secure between transmission systems as required by regulation, policy or standard and as prescribed for the given application/system.

9. Intrusion Detection and Prevention

All systems that are accessible via the Internet, are critical, or contain ePHI (electronic Protected Health Information) shall install and actively use a Department approved comprehensive third-party real-time host based intrusion detection and prevention program that reports security events directly to the Department ISO. All security safeguards and precautions shall be subject to the approval of Department ISO.

10. Minimum Data Downloads

In accordance with the principle of need-to-know, only the minimum amount of information required to perform necessary business functions should be copied or downloaded.

11. Data Destruction

All Department information must be wiped from systems when the information is no longer necessary. The wipe method must conform to Department of Defense (DoD) and Department standards for information destruction. Once information has been destroyed, the Department contract manager must be notified. If an agency or other entity is unable to destroy media in accordance with Department standards and provide notification, the media must be returned to the Department after usage for destruction in an approved manner.

12. Confidential Destruction

Department PHI in paper form must be disposed of through confidential means, such as cross cut shredding and pulverizing.

13. Removal of Data

Department PHI in either electronic or paper form shall not be removed from Department premises or from the premises of an authorized vendor or contractor without the written permission of the Department ISO.

14. Faxing of Confidential Information

Facsimile transmissions containing PHI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers must be verified before sending.

15. Mailing of Confidential Information

Department PHI shall only be mailed using secure methods. Large volume mailings of Department PHI must be by a secure, bonded courier with signature required on receipt. Disks and other transportable media sent through the mail must be encrypted with a Department approved solution or a solution using a vendor product specified on the Department of General Services (DGS) California Strategic Sourced Initiative (CSSI) website.

C. Solution Architecture

1. System Security Compliance

The system shall comply with all applicable Department security policies and requirements, as well as those specified in the State Administrative Manual (SAM), Health Administrative Manual (HAM), HIPAA, Privacy Act, and any other applicable state or federal regulation. All security safeguards and precautions shall be subject to the approval of the Department ISO.

2. Warning Banner

All systems containing Department information shall display a login warning banner stating that information is confidential, activity is logged, and system use is for business purposes only. User shall be directed to log off the system if they do not agree with these requirements.

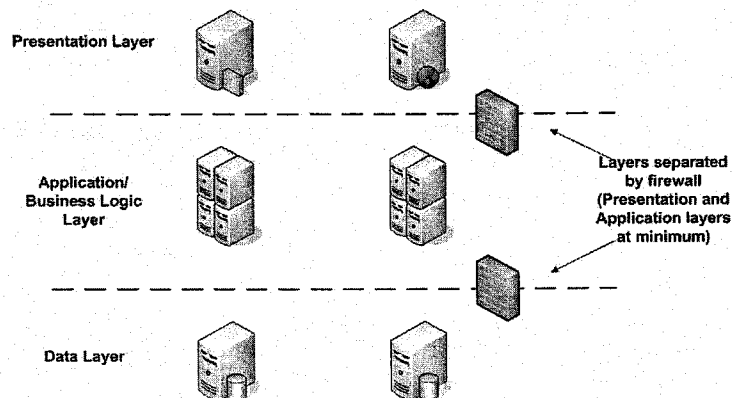
The following warning banner shall be used for all access points (e.g., desktops, laptops, web applications, mainframe applications, servers and network devices):

WARNING: This is a State of California computer system that is for official use by authorized users and is subject to being monitored and/or restricted at any time. Unauthorized or improper use of this system may result in administrative disciplinary action and/or civil and criminal penalties. By continuing to use this system you indicate your awareness of and consent to these terms and conditions of use.

LOG OFF IMMEDIATELY, if you do not agree to the conditions stated in this warning.

3. Layered Application Design

Application must be able to be segmented into a layered application design separating at a minimum the Presentation, Application/Business Logic, and Data Access Logic, and Data Persistence/Database layers.



4. Separation of Layers

The Presentation, Application/Business Logic, and Data Access Logic layer must be separated physically by a firewall regardless of physical implementation.

Vendor-provided commercial off-the-shelf (COTS) packages or components where physical separation of layers is not possible requires ISO approval.

5. Business Logic Layer Communication

Any system request made to the Business logic layer must be authenticated.

6. Data Access Logic Layer Design

The Data Access Logic Layer may take the form of stored procedures, database API (Application Programming Interface), Data Access Objects/Components, Data Access Middleware, Shared Data Services, or Secure Web Service.

7. Data Access Logic Layer Communication

Any system request made to the Data Access logic layer must be authenticated and authorized.

8. Data Persistence/Database Layer Isolation

No direct access to the Data Persistence/Database layer will be permitted, except through the Data Access logic layer.

All calls to the Data Persistence/Database layer will be made through the Data Access logic layer as a trusted sub-system that utilizes a single database access account to all transactions.

Vendor-provided commercial off-the-shelf (COTS) packages or components where physical separation of Data Access Logic layer from Data Persistence/Database layer is not possible require ISO approval.

9. User Input Validation

All user input must be validated. The system must manage client input controls from server side to the extent possible. All third-party client side input controls must be documented and approved by the Department ISO.

10. Data Input Validation

All user information input must be validated before being committed to the database or other application information repository.

11. Data Queries

All Data queries (including In-line SQL calls) will not be allowed from the Presentation or the Business Logic layers unless validated for appropriate use of query language and validated for appropriate quantity/quality of data input. All data queries solution must be approved by the Department ISO.

Database table names and column names must not be exposed. Applications must use an alias for every table and column.

Dynamic SQL will not be permitted from the Presentation Layer without prior approval from the Department ISO.

12. Username/Password Based Authentication

When usernames and passwords are going to be used as the method for system authentication the following for each must be met:

- Username requirements:
 - Usernames are unique and are traceable to an individual worker.
 - Usernames are NOT to be shared and never hard-coded into system logic.

- Password requirements:
 - Are not to be shared.
 - Must be 8 characters or more in length.
 - Must NOT be a word found in the dictionary, regardless of language.
 - Passwords must be encrypted using irreversible industry-accepted strong encryption.
 - Must be changed at least every 60 days.
 - Must NOT be the same as any of the previous 10 passwords.
 - Must be changed immediately if revealed or compromised.
 - Must be composed of characters from at least three of the following four groups from the standard keyboard:
 - Upper case letters (A-Z);
 - Lower case letters (a-z);
 - Arabic numerals (0 through 9); and
 - Non-alphanumeric characters (punctuation symbols).
 - Accounts must be locked after 3 failed logon attempts.
 - Account lock-out reset timers must be set for a minimum of 15 minutes.

13. Privileged Accounts Management

- Privileged Account Authorization
A privileged account is an account that allows an individual to perform maintenance on an operating system or application (e.g. create/remove users, install applications, create/modify databases). Privileged accounts require the approval of the individual's manager, the ISO, and must include a business justification stating why privileged access is required and what it will be used for.

Individuals granted privileged accounts must have already signed the Security and Confidentiality Acknowledgement Statement. Privileged accounts must be unique and associated with the individual for whom the account is authorized. The use of shared privileged accounts (e.g. Administrator) is strictly prohibited.

- Username requirements
 - Must be unique and are traceable to an individual person.
 - Must NOT be shared.
 - Must never be hard-coded into system logic.
 - Must NOT be the same across different zones (e.g. Web Zone, Internal network, and Test Labs / Environments).
 - The default built-in Administrator account must be renamed and disabled.
 - The naming convention for privileged accounts must not make it obvious that usernames belong to privileged accounts.
 - If a generic privileged account is created:
 - It must only be used in an Emergency.
 - It is NOT to be used for routine maintenance.
 - The password storage and management process for generic privileged accounts must be approved by the Department ISO.

- Password requirements
 - Must not be the same as any of the previous 10 passwords.
 - Must not to be shared.
 - Must NOT be the same across different zones (e.g. Web Zone, Internal network, and Test Labs / Environments).
 - Must be 12 characters or more in length.
 - Must NOT be a word found in the dictionary, regardless of language.
 - Password must NOT be stored in clear text.
 - Must be changed at least every 60 days.
 - Must be changed immediately if revealed, or compromised.
 - Must be changed immediately upon the termination or transfer of an employee with knowledge of the password.
 - Passwords must be encrypted using industry accepted, irreversible strong encryption.
 - Accounts must be locked after 3 failed logon attempts.
 - Account lock-out timers must be set for at least 60 minutes.
 - Must be comprised of characters from at least three of the following four groups from the standard keyboard:
 - Upper case letters (A-Z);
 - Lower case letters (a-z);
 - Arabic numerals (0 through 9);
 - Non-alphanumeric characters (punctuation symbols).

- Restrictions for Privileged Accounts
 - Holders of privileged accounts must restrict the use of their account privileges to activities that are part of their job and that require privileged access.
 - Holders of privileged accounts must never share their access and password with other individuals.

14. Service Accounts Management

- **Service Account Authorization**
In situations where it is necessary to use a service account, which is an account used to run a service and whose password is known by multiple individuals, the account request will be approved by the manager of the Project/Program requesting the account and by the ISO. Requirements, stating the need for a service account, will be documented in the request. A service account password is shared among the individuals authorized to access the account, and is subject to controls as stated in the password requirements in this document.
- **Restrictions for Service Accounts**
 - Sharing passwords via email is prohibited, unless the body of the email itself is encrypted using strong encryption.
 - When users are no longer authorized to access an existing service account, the service account password must be changed.

15. Role - Based Access

Any system deployed during, or as a result of a project, shall provide secure role-based access for authorization utilizing the principle of least privilege at all layers/tiers.

16. User / Entity Authentication Logging

The system must log success and failures of user authentication at all layers as well as log all user transactions at the database layer as required by regulation, policy or standard and as prescribed for the given application/system. This logging shall be included for all user privilege levels including but not limited to systems administrators. This requirement applies to systems that process, store, and/or interface with PII (Personal Identifiable Information) and/or confidential information.

17. Automatic System Session Expiration

The system must provide an automatic timeout of user sessions after 20 minutes of inactivity.

18. Automatic System Lock-out and Reporting

The system must provide an automatic lock-out of users and a means to audit a minimum of 3 failed log-in attempts. The means of providing audit information must be approved by the Department ISO.

19. Role-based Access to Audit Functions and Data

All systems/applications will implement role-based access to auditing functions and audit trail information utilizing the principle of least privilege.

20. Secure Online Access to Audit Functions

All systems / applications will implement a secure online interface to Audit Capabilities and Reporting by way of application programming interface (API) or network service (or Web Service); to allow Department ISO to view logs, auditing procedures, and audit reporting.

21. Audit Trails

This requirement delineates the (minimum) log information that audit trails should record for any system that contains or is involved in the transmission of confidential information. The information listed below should be available on every system running a production environment. Not only will this information assist with problem resolution efforts and system restore operations, it will also be invaluable to system penetration attack investigations, fraud investigations, etc.

The system must record (at minimum) the following events and any other events deemed appropriate by the Department ISO:

Transaction Types

- Any and all administrative changes to the system (i.e. administrative password changes (forgotten password resets), system variables, network configuration changes, disk subsystem modifications, etc).
- Logon failures.
- Logons during non-business hours.
- Program or file access denial.
- Addition, deletion, or modification of users or program access privileges.
- Changes in file access restrictions.
- Database addition, deletion, or modification.
- Copy of files before and after read and write changes.
- Transaction issued.

Individual audit trail records shall contain the information needed to associate each query transaction to its initiator and relevant business purpose. Individual audit trail records should capture at a minimum the following:

Minimum Audit Trail Record Content

- Date and Time Stamp.
- Unique Username of Transaction Initiator.
- Transaction Recorded.
- Success or Failure of Transaction Recorded.
- Relevant business process or application component involved.
- Data captured (if any).

Audit Trail logs shall be maintained at minimum for three years after the occurrence or a set period of time determined by the Department ISO that would not hinder a detailed forensic investigation of the occurrence. The Department ISO has final approval authority.

22. Application Security Controls

For any application which accesses confidential data, the following technical controls shall be present, unless an exception is granted by ISO:

- Shall use *least privileged accounts* to execute code and to access databases.
- User access rights shall be authenticated and authorized on entry to each application tier.
- All user input shall be validated as well as all validating parameters passed to all public web service methods.
- Do not expose information that is not required, as such information can potentially open doors that might lead to new vulnerabilities.
- If a web application fails, it shall not leave sensitive data unprotected or expose any details in error messages presented to the user. Any exceptions shall be logged or emailed to the appropriate team member.
- Any sensitive data stored in session, cookies, disk files etc., shall be encrypted. Any sensitive data passed between tiers shall be encrypted.
- Applications shall be protected from the Internet by a front-end web application, firewall, gateway, and proxy of a type approved by the ISO, which shall be included in the documented system design.
- Post back Universal Resource Locators (URLs) shall not contain unencrypted record identifiers or database keys.
- Post back URLs shall not include query strings.

D. Documentation of Solution

1. System Configuration

As part of each project, assigned staff will document and maintain a full inventory of the major hardware, software, and communications platforms in use; system configurations; all applications/components with descriptions encompassing the solution; and a description of the solution's security design features and user access control mechanisms. Project/Program will ensure a custodian(s) is assigned to each application/component.

2. Data In Use Classifications

Project/Program will document and maintain information classification matrix of all information elements accessed and/or processed by solution.

The matrix should identify at a minimum:

- Information element.
- Information classification/sensitivity.
- Relevant function/process or where is it used.
- System and database or where is it stored.

3. System Roles and Relationships

Project shall document the following roles and ensure everyone understands their role, and complies with all applicable regulations including the SAM.

- The designated owner of the system
- The designated custodian(s) of the system
- The users of the system
- The security administrator for the system
- Outside entities sending or receiving data to system

Project shall document the organizational structure and relationships between these roles.

4. Audit Method Documentation

Project/Program will document the solution's auditing features and provide samples of audit reporting.

5. Retention of Documentation

The system/application administrators will retain documentation, including audit and activity logs, for a minimum of three years (up to seven years) from the date of its creation or the date it was last in effect, whichever is later.

E. ISO Notifications and Approvals

1. Security Compliance Notification

As part of each project, assigned staff will document how proposed solution meets or addresses the requirements specified in this document and must be submitted to the Department ISO prior to taking custody of Department owned information.

2. Notification of Changes to Solution

Once a project is approved as final by the Department ISO, no changes will be made to the project scope, documentation, systems or components without a change approval by the Department ISO.

3. Notification of Breach or Compromise

The system/application administrators shall immediately and in writing report to the Department ISO any and all breaches or compromises of system and/or information security, and shall take such remedial steps as may be necessary to restore security and repair damage, if any.

In the event of a breach or compromise of system and/or information security, the Department ISO may require a system/application security audit. The Department ISO shall review the recommendations from the security audit, and make final decisions on the steps necessary to restore security and repair damage.

The system/application administrators shall properly implement any and all recommendations of the security audit, as approved by the Department ISO.

4. Project Security Approvals

Projects shall ensure checkpoints throughout the SDLC which verify security requirements are being met. This shall be incorporated in the project plan along with identification of necessary resources, timelines, and costs to address these requirements. An ISO representative should be involved throughout the SDLC to ensure this occurs.

For reportable FSR's, Office of Information Security and Privacy Protection (OISPP) requires submission of the *Questionnaire for Information Security and Privacy Components in Feasibility Study Reports and Project-Related Documents*. See http://www.oispp.ca.gov/government/documents/docs/Info_Sec_and_Priv_Components_FSR-Questionnaire.doc. The response to this document shall be approved by the ISO prior to submission.

Projects shall ensure all applicable security requirements and deliverables are included in the project plan, and that ISO approvals are obtained, where required. This includes those listed in the following section, and any covered by other sections of this document. ISO shall be given reasonable time to review and comment on these deliverables.

5. Application Security Approvals

At a minimum, for any application which accesses confidential data, the following documented ISO approvals shall be obtained at the appropriate project phases, and before the application is moved to production.

- ISO approval of a dated, detailed design document. This design shall include network layout including specific firewall port requirements, server hosting locations, operating systems, databases, data exchange interfaces, and points of authentication/authorization. The project shall not move beyond the design phase until there is an ISO approved design.
- ISO approval of any non-standard development tools, e.g. programming languages or toolkits.
- ISO approval of a plan for an independent security code review which addresses at minimum the current Open Web Application Security Project (OWASP) top ten application vulnerabilities, where applicable. ISO shall approve any findings of that code review not being corrected. ISO recommends the security code review be carried out during the development process rather than only at the end.
- ISO approval of a plan for security code reviews of future maintenance code changes, which addresses at minimum the current OWASP top ten application vulnerabilities, where applicable.
- ISO approval of a plan for an independent automated security vulnerability assessment of the application, and approval of the findings of that assessment. The assessment shall assess the OWASP top ten risks at minimum, as applicable.

Independent as indicated above is defined as organizationally separate from those developing or configuration the application. The independence and skill level of the entities being utilized shall be approved by ISO.

Application code and infrastructure is subject to ISO audit, and shall match the approved detailed design.

F. Appendix A – SR1 Exemption Form

REF	Security Requirement	Exemption (Yes, No, or N/A)	Business Justification
A	Administrative / Management Safeguards		
1	Workforce Confidentiality Statement		
2	Access Authorization		
3	Access Authorization Maintenance		
4	Information System Activity Review		
4	Periodic System Security Review		
6	Periodic System Log Review		
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4	Encrypted Electronic Transmissions		
5	Encrypted Data Storage		
6	Workstation / Laptop Encryption		
7	Removable Media Encryption		
8	Secure Connectivity		
9	Intrusion Detection and Prevention		
10	Minimum Data Downloads		
11	Data Destruction		
12	Confidential Destruction		
13	Removal of Data		
14	Faxing of Confidential Information		
15	Mailing of Confidential Information		
C	Solution Architecture		
1	System Security Compliance		
2	Access Point Warning Banner		
3	Layered Application Design		
4	Separation of Layers		

REF	Security Requirement	Exemption (Yes, No, or N/A)	Business Justification
5	Business Logic Layer Communication		
6	Data Access Logic Layer Design		
7	Data Access Logic Layer Communication		
8	Data Persistence/Database Layer Isolation		
9	User Input Validation		
10	Data Input Validation		
11	Data Queries		
12	Username/Password Based Authentication		
13	Privileged Accounts Management		
14	Service Accounts Management		
15	Role - Based Access		
16	User / Entity Authentication Logging		
17	Automatic System Session Expiration		
18	Automatic System Lock-out and Reporting		
19	Role-based Access to Audit Functions and Data		
20	Secure Online Access to Audit Functions		
21	Audit Trails		
22	Application Security Controls		
D	Documentation of Solution		
1	System Configuration		
2	Data In Use Classifications		
3	System Roles and Relationships		
4	Audit Method Documentation		
5	Retention of Documentation		
E	ISO Notifications		
1	Security Compliance Notification		
2	Notification of Changes to Solution		
3	Notification of Breach or Compromise		
4	Project Security Approvals		
5	Application Security Approvals		