

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRIAMOS
 DATE: 11/26/14
 Purchasing: Mark Sailer, Assistant Director

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

603



FROM: Department of Public Health

SUBMITTAL DATE:
September 29, 2014

SUBJECT: Ratify multi-year Agreement #15-066 between Jurupa Unified School District and the County of Riverside Department of Public Health for Supplemental Nutrition Assistance Program Education. District: 2. [\$50,000]; 100% Federal funds.

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify Agreement #15-066 between Jurupa Unified School District (District) and the County of Riverside Department of Public Health (DOPH) in the amount of \$50,000 for the period of October 1, 2014 through September 30, 2016;
2. Authorize the Chairman of the Board to sign four (4) originals of said agreements on behalf of the County; and
3. Authorize the Purchasing Agent to sign subsequent amendments to this agreement not to exceed the approved amount and performance period.

BACKGROUND:

Summary (continued Page 2)

GH:cr

Susan D. Harrington, Director
 Department of Public Health

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 18,750	\$ 25,000	\$ 50,000	\$ 0	Consent <input type="checkbox"/> Policy X
NET COUNTY COST	\$ 00.00	\$ 00.00	\$ 00.00	\$ 0	

SOURCE OF FUNDS: 100% Federal funds	Budget Adjustment: No
	For Fiscal Year: 14/15

C.E.O. RECOMMENDATION:

APPROVE

BY:
 Jennifer L. Sargent

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- A-30
- Positions Added
- 4/5 Vote
- Change Order

Prev. Agn. Ref.:

District: 2

Agenda Number:

3-29

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

FORM 11: Ratify multi-year Agreement #15-066 between Jurupa Unified School District and the County of Riverside Department of Public Health for Supplemental Nutrition Assistance Program Education. District: 2. [\$50,000]; 100% Federal funds.

DATE: September 29, 2014

PAGE: 2 of 2

BACKGROUND:

Summary

The California Department of Public Health, Nutrition Education and Obesity Prevention Branch (NEOPB) represents a statewide movement of local, state and national partners collectively working toward improving the health status of low-income Californians through increased fruit and vegetable consumption and daily physical activity. Multiple venues are used to facilitate behavior change in the homes, schools, worksites, and communities of low-income Californians to create environments that support fruit and vegetable consumption and physical activity. NEOPB funds must be spent on qualifying nutrition and physical activity programs in Riverside County through partnerships and coalitions to promote nutrition and physical activity. The target population for this program is eligible for participation in the Supplemental Nutrition Assistance Program (SNAP).

The DOPH is subcontracting with the District for a period of two (2) years to implement Supplemental Nutrition Assistance Program Nutrition Education (SNAP-Ed).

Impact on Citizens and Businesses

Based on qualifying areas within the County of Riverside, SNAP-ED eligible population will be targeted to increase the consumption of healthy foods and beverages, reduce consumption of less healthy foods and beverages and to increase physical activity as part of the Nutrition Education and Obesity Prevention Branch.

SUPPLEMENTAL:

Additional Fiscal Information

The Department of Public Health, NEOPB program receives 100% of its funding from the State as a pass through from the Federal government. The NEOPB program year is based on a federal fiscal year.

The table below outlines how the funds are distributed over the three year term of the agreement. Funding allocation for the county fiscal years is as follows:

Federal and County Fiscal Year Budget Comparison Table				
Federal Fiscal Year	FFY14/15	FFY15/16		
Jurupa Unified School District	\$ 25,000	\$ 25,000		\$ 50,000
County Fiscal Year	FY14/15	FY15/16	FY16/17	
Budget Amount	\$ 18,750	\$ 25,000	\$ 6,250	\$ 50,000

Contract History and Price Reasonableness

Funds for this subcontract are from the NEOPB grant Agreement #13-20527 with California State Department of Public Health. This grant was approved by the Board of Supervisors on December 14, 2013, Board Agenda Number 3-41, in the amount of \$11,195,880 for the period of October 1, 2013 through September 30, 2016.

The Jurupa Unified School District was invited and selected to participate in the NEOPB grant based on meeting qualifying criteria dictated by State Local Health Department agreement approved by Board of Supervisors on December 14, 2013, Board Agenda Number 3-41.

Agreement

This is a Subcontracting Agreement of the California Supplemental Nutrition Assistance Program Education (SNAP-Ed) Plan of the California Department of Public Health, the California Department of Social Services and the United States Department of Agriculture
between

County of Riverside Department of Public Health

and

Jurupa Unified School District

I. Purpose and Scope.

The purpose of this subcontract agreement, hereinafter referred to as “subcontract” or “agreement”, is to clearly identify the roles and responsibilities of each party as they relate to providing nutrition education to Californians participating or eligible to participate in the CalFresh, previously known as the Food Stamp Program in California.¹ California’s Supplemental Nutrition Assistance Program Education (SNAP-Ed) is funded federally by the United States Department of Agriculture (USDA) and administered at the state level by the California Department of Social Services (CDSS) and the California Department of Public Health’s (CDPH’s) *Nutrition Education and Obesity Prevention Branch (NEOPB)*.

The SNAP-Ed program is intended to provide nutrition education to low-income households. To support this goal, County of Riverside Department of Public Health, hereinafter referred to as “COUNTY” or “Grantee”, and Jurupa Unified School District, hereinafter referred to as “DISTRICT” or “Sub-grantee”, will conduct nutrition education interventions to eligible families as described in their respective Scope of Work/Deliverables. Allowable services are outlined in the USDA SNAP-Ed Plan Guidance located at the following link:

<http://snap.nal.usda.gov/national-snap-ed/snap-ed-plan-guidance-and-templates>

Both COUNTY and DISTRICT should ensure that program activities are conducted in compliance with all applicable Federal laws, rules, and regulations including Civil Rights and Office of Management and Budget (OMB) circulars governing cost issues.

II. Period of Performance.

The term of this agreement is the period within which the project responsibilities of this agreement shall be performed. The term commences October 1, 2014 and terminates September 30, 2016.

III. Compensation.

In consideration of services provided by COUNTY, DISTRICT shall receive compensation for services set forth in Exhibit A, SCOPE OF WORK and Exhibit B, BUDGET, not to exceed fifty thousand dollars (\$50,000) including all expenses.

IV. COUNTY Responsibilities.

COUNTY shall undertake the following activities during the duration of the agreement term:

1. Ensure adherence of DISTRICT to applicable federal and state laws and regulations and program guidelines.
2. Review and approve all documentation evidencing DISTRICT's performance of services as set forth in the Scope of Work/Deliverables, attached hereto as Exhibit A, and monitor DISTRICT compliance with the agreement.
3. Provide training and technical assistance to DISTRICT on promising practices and fiscal and programmatic rules and regulations.
4. Promptly reimburse allowable expenses according to the terms and conditions set forth in this agreement according to the following:
 - a. The COUNTY standard payment default terms of 30 days after the submission of the monthly Federal Share invoices to COUNTY.
5. Ensure that DISTRICT's Scope of Work/Deliverables activities do not supplant existing SNAP-Ed efforts or funding.
6. Review DISTRICT's audit report and, within six months of receipt, issue a management decision on any audit findings. COUNTY will also ensure that DISTRICT takes appropriate and timely corrective action to remain in compliance with federal regulations.

V. DISTRICT Responsibilities.

DISTRICT shall undertake the following activities during the duration of the agreement term:

1. Support and facilitate nutrition education services as outlined in the approved Scope of Work/ Deliverables and Budget Justification attached hereto as Exhibit B. Services shall be provided to SNAP eligible participants and potential SNAP eligible participants who have incomes at or below 185% of the federal poverty level (FPL). DISTRICT will be required to designate the sites where services will be provided to ensure the target population is being reached. Site approval must be obtained before services begin. The methods used to qualify the proposed sites include:

- a. School sites within DISTRICT and at least 50% of the students receiving free or reduced price meals.
2. Ensure that Federal Share is not used to supplant existing SNAP-Ed funds or activities.
 3. Follow all relevant laws and regulations regarding documentation, reporting, use, etc. of these federal funds in accordance with OMB circulars A-122 and A-133 (for non-profits) or OMB circulars A-87 and A-133 (for State, Local, and Indian Tribal Governments) or OMB circulars A-21 (for Educational Institutions).
<http://www.whitehouse.gov/omb/circulars/>
 4. Furnish project management, contract administration and fiscal control services, including but not limited to:
 - a. Adherence to the approved Scope of Work/Deliverables and Budget Justification attached.
 - b. Return of this agreement, with the required signatures, within 30 days of its receipt.
 - c. Preparation and submission of approved monthly time log forms for each employee charging personnel costs to the program.
 - d. Preparation and submission of monthly Federal Share invoices to COUNTY according to the following :
 - 1) Monthly Invoices Due Dates:
DISTRICT shall submit monthly invoices by the 25th of the following month to pay prior monthly expenditures.
 - 2) Invoices shall be submitted or emailed to:

County of Riverside Department of Public Health
Nutrition Services Branch - Attn: Claudia Rodriguez
4065 County Circle Drive, Suite # 207
Riverside, CA 92503
CMRodriguez@rivcocha.org
 - e. Sub-grantee is required to separate, batch and label each set of documentation according to one of the nine line items to which the expense is billed. Batch , attach vendor invoices, bills, receipts for all purchases and label the documentation according to the following line items:
 - 1) Personnel Salaries
 - 2) Fringe Benefits
 - 3) Operating Expenses

- 4) Equipment Expenses – Not Applicable
 - 5) Travel and Per Diem
 - 6) Subcontracts – Not Applicable
 - 7) Other Costs
 - 8) Indirect Costs
- f. Sub-grantee is required to sign and submit a copy of the fully executed sub-grant agreement and/or consultant agreement to COUNTY.

The following key elements must be included in the sub-grant agreements:

- 1) Name of the parties entering into the agreement.
 - 2) Terms of the agreement.
 - 3) Scope of services or work to be completed, attached here as Exhibit A.
 - 4) Maximum amount payable.
 - 5) Cancellation clause.
 - 6) Record retention clause
 - 7) Copy of the CDPH - Special Terms and Conditions Exhibit D(F), attached hereto as Attachment 1.
 - 8) Information confidentiality and security requirements, attached hereto as Attachment 2.
 - 9) Information systems security requirements for projects, attached hereto as Attachment 3.
- g. Comply with all requests from COUNTY including programmatic and fiscal onsite or desk reviews. Upon request, provide documentation to the COUNTY and follow protocols to ensure compliance with requirements.
- h. Preparation and submission of On-line Activity Tracking Form (ATF) and Progress Reports as follows:
- 1) See attached Scope of Work/Deliverables Exhibit A (1-6)
 - 2) Activities must be logged by the 7th of the following month to track prior months activities.
 - 3) Progress reports will be due on the 5th day after the end of the quarter. (Jan 5, 2015, April 5, 2015, July 5, 2015 , October 5, 2015)
- i. Participation in all mandatory trainings and meetings as requested by COUNTY.
- j. DISTRICT agrees to maintain and preserve files relevant to agreement, until three years after termination of (agreement number) and final payment is received from the NEOPB to the Grantee. In addition, permit the NEOPB , CDPH, CDSS, USDA or any duly authorized to have access to, examine or audit any pertinent books, documents, papers and fiscal records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records. Any costs that cannot be substantiated by source documentation may be disallowed.

- k. Return any funds necessary to repay USDA for any federal audit exceptions in which DISTRICT has not complied with the requirements of this agreement and applicable state and federal regulations.
- l. Submission of a copy of audited financial statements to COUNTY nine months after the year end. DISTRICT agrees to provide access to auditors to determine compliance with federal regulations.

VI. Documentation Approval and Acknowledgements.

COUNTY and DISTRICT agree that documents prepared by organizations using CDPH funding for external release, in print or other media, or via the Internet, must undergo appropriate review and approval prior to release. Documents prepared by CDPH contractors and subcontractors and intended for publication and distribution by an entity outside of CDPH must receive the necessary departmental approvals prior to publishing or distribution. Concurrent submission to the internal and external review processes is not permitted. Reviews may take up to thirty (30) working days. CDPH has identified the following category of documents intended for external release applicable to nutrition education:

Health Education/Communication

- One time, periodic, or occasional
- Provides factual information to the public or target audience to prevent disease or improve health status
- Conveys a specific public health message to a select target audience about a specific public health problem or program

Examples:

- Brochure
- Fact sheet
- Media campaigns and advertisements
- Newsletter
- Fotonovela
- Press release or other press materials
- Public Service Announcement
- Social Networking – Facebook, Twitter, etc.

Materials, whether newly developed or reprinted, must include an appropriate acknowledgement/funding statement.

See the *NEOPB Branding Guidelines Manual* at:

<http://www.cachampionsforchange.cdph.ca.gov/Library/networkbrandhome.php>

for information on approved acknowledgement/funding statements and which types of materials should carry which version of the statement. For materials not listed, contact COUNTY for guidance on which statement is appropriate.

Whenever possible, the *NEOPB* logo should be displayed prominently on all materials produced with *NEOPB* funds. This includes flyers, Web pages, PowerPoint presentations, printed publications, or any other documents. *NEOPB* logos are available in English, Spanish, black and white, color, and in different electronic file formats online in the *Resource Library*
<http://cdph.ca.gov/programs/cpns/RL/Pages/default.aspx>

Additional Provisions links:

Fiscal and Administrative Guidelines

<http://www.cdph.ca.gov/programs/cpns/Pages/FiscalandADministrativeGuidelinesManual.aspx>

NEOPB Program Letters and any revisions

<http://www.cdph.ca.gov/programs/cpns/Pages/ProgramLetters.aspx>

United States Department of Agriculture, Supplemental Nutrition Assistance Program Education (SNAP-Ed) Plan Guidance

<http://snap.nal.usda.gov/snap/Guidance/FinalFY2015SNAP-EdGuidance.pdf>

VII. Terms and Conditions.

1. Hold Harmless/Indemnification.

Each party agrees to indemnify, defend, and hold harmless the other party and its officers, directors, trustees, employees, agents (together “Employees and Agents”) from any claim, liability or loss, including reasonable attorneys’ fees arising out of or resulting from the acts or omissions of the indemnifying party or any of its Employees or Agents in connection with this Agreement, excepting only loss, injury or damage caused by the sole negligence of willful misconduct of the non-indemnifying party’s Employees and Agents. Each party shall notify the other party immediately in writing of any claim of injury or damage related to activities performed pursuant to this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities of this Agreement, provided that nothing shall require either party to disclose any documents, records or communications that are protected under the peer review privilege, the attorney-client privilege or the attorney work-product privilege. The provisions of this section shall survive the termination of this Agreement.

2. Liability Insurance.

Without limiting or diminishing the DISTRICT’S obligation to indemnify or hold the COUNTY harmless, DISTRICT shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage’s during the term of this Agreement:

a. Workers’ Compensation:

If the DISTRICT has employees as defined by the State of California, the DISTRICT shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include

Employers' Liability (Coverage B) including Occupational Disease with limits not less than one million dollars \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The County of Riverside, and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

b. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury covering claims which may arise from or out of DISTRICT'S performance of its obligations hereunder. Policy shall name all Agencies, Districts, Special Districts, and Departments of the COUNTY of Riverside, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insured's. Policy's limit of liability shall not be less than one million dollars \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

c. Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then DISTRICT shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than one million dollars \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insured's.

d. General Insurance Provisions - All lines:

- 1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.
- 2) The DISTRICT must declare its insurance self-insured retentions. If such self-insured retentions exceed five hundred, thousand \$500,000 per occurrence such retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self insured retention unacceptable to the COUNTY, and at the election of the Country's Risk Manager, DISTRICT'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a

bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

- 3) DISTRICT shall cause DISTRICT'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, or 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. *DISTRICT shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsement or policy of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.*
- 4) It is understood and agreed to by the parties hereto and the insurance company(s), that the Certificate(s) of insurance and policies shall so covenant and shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.
- 5) The COUNTY'S Reserved Rights –Insurance. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work (such as the use of aircraft or watercraft) the COUNTY reserves the right to adjust the type of insurance required herein, if, in the COUNTY Risk Manager's reasonable judgment the amount or type of insurance carried by the DISTRICT has become inadequate
- 6) DISTRICT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.
- 7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

3. License.

- a. DISTRICT shall, through the term of this Agreement, maintain all licenses necessary for the provision of the services hereunder and required by the laws and

of the United States, the State of California, County of Riverside, and all other governmental agencies. DISTRICT shall notify COUNTY immediately, in writing, of inability to obtain or maintain such license. Said inability shall be cause for termination of this Agreement.

- b. DISTRICT shall ensure that DISTRICT'S employees, agents and other DISTRICT'S performing services under the terms of this Agreement are in compliance with all relative licensing requirements. DISTRICT hereby agrees to notify COUNTY immediately, in writing, of inability of DISTRICT or any of DISTRICT'S employees, agents and other DISTRICT'S, to obtain or maintain such license(s). Said inability shall be cause for termination of this Agreement.
- c. A copy of each such license, permit, approval, waiver, exemption, registration, accreditation, and certificate shall be provided to COUNTY.

4. Nondiscrimination and Eligibility.

DISTRICT shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel, on the basis of ethnic group identification, race, color, creed, ancestry, religion, national origin, physical handicap, medical condition, or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of California Fair Employment and Housing Act (Gov. Code 12900 et. Seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. §1210 et. Seq.) and all other applicable laws or regulations.

5. Conflict of Interest.

DISTRICT and DISTRICT'S employees shall have no interest, and shall not acquire any interest, direct or indirect, which will conflict in any manner or degree with the performance of services required under this Agreement

VIII. Special Terms and Conditions.

COUNTY and DISTRICT shall follow all relevant and applicable regulations as specified in the CDPH "Special Terms and Conditions", also known as Exhibit D(F), attached hereto as Attachment 1. These may include, but are not limited to:

1. Travel and Per Diem Reimbursement – unless otherwise specified, Party A and Party B will be reimbursed for travel and per diem expenses at rates established by the California Department of Personnel Administration.
2. Subcontract Requirements – Not Applicable.
3. Lobbying Restrictions – for contracts and subcontracts that equal or exceed \$100,000 in Federal Share.

4. Intellectual Property Rights – 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 which result directly or indirectly from this Agreement.

IX. Funding.

1. Federal Share SNAP-Ed funding shall not be used to supplant existing nutrition education funds or activities during the term of the contract.
2. DISTRICT shall provide Federal Share budget documentation as requested by USDA, CDSS, CDPH or COUNTY.
3. Program activities shall not supplant existing nutrition education programs, and where operating in conjunction with existing programs, enhance and supplement them.
4. Funding for each federal fiscal year is subject to approval by USDA. If full funding does not become available, CDPH will amend, reduce or cancel the resulting agreement. Continuation of services beyond the first fiscal year is subject to COUNTY and DISTRICT continued successful performance.

X. Modification and Termination.

1. This agreement may be cancelled or terminated without cause by either party by giving (30) calendar days advance written notice to the other party. Such notification shall state the effective date of termination or cancellation and include any final performance and/or payment invoicing instructions/requirements.
2. Any and all amendments must be made in writing and must be agreed to and executed by the parties before becoming effective.
3. It is mutually agreed that if the Federal Budget 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 and COUNTY shall have no liability to pay any funds whatsoever to DISTRICT; and DISTRICT shall not be obligated to perform any provisions of this Agreement for which they are not reimbursed.
4. If funding for any fiscal year is reduced or deleted by the Federal Budget for purposes of this program, the State and COUNTY shall have the option to either cancel this Agreement with no liability occurring to the State or COUNTY, or offer an agreement amendment to DISTRICT to reflect the reduced agreement.

XI. Notices.

Any notices required to be given under this agreement shall be given by regular mail, postage prepaid, addressed as follows:

COUNTY:

Department of Public Health
Procurement and Logistics
4065 County Circle Drive
Riverside, California 92503

and a copy to:

Department of Public Health
Nutrition Services Branch
4065 County Circle Drive, Suite #207
Riverside, California 92503

DISTRICT:

Jurupa Unified School District
Education Center
4850 Pedley Road
Pedley Valley, CA 92509

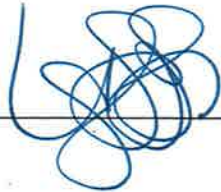
Or to such other address (es) as the Parties may hereafter designate.

XII. Effective Date and Signature.

This agreement shall be effective upon the signature of COUNTY and DISTRICT authorized officials. It shall be in force from October 1, 2014 to September 30, 2016. COUNTY and DISTRICT indicate agreement with their signatures.

COUNTY

DISTRICT



Marion Ashley, Chairman of the
Board of Supervisors

Print Name

April Devlin, Director
Centralized Support Services

Print Name

Date

November 4, 2014

Date

ATTEST:

By _____
Kecia Harper-Ihem, Clerk

Jurupa Valley Unified School District

Scope of Work/Deliverables

1. Riverside County Work Plan - Annually, contribute to the objectives and policy, systems and environmental change support pieces of the county's work plan.

2. Nutrition Education

2a. Direct Nutrition Education (Students and Adults)

- Annually, facilitate DOPH and/or SNAP-Ed funded community partner in scheduling the (5) class series in the Impact/Outcome Evaluation project. (See deliverable #6 for more details)

2b. Indirect Nutrition Education - Not applicable in this grant.

2c. Indirect Nutrition Education (School Events)

- Annually, facilitate DOPH and/or SNAP-Ed funded community partner in scheduling at least (1) school event at a minimum of (5) qualifying schools.

3. Training, Coalitions, and Meetings

3a. Training service providers, recruit "Champions", youth, healthcare providers and/or groups on SNAP-Ed strategies.

- Annually, JUSD will support and facilitate in the recruitment of school "Champions" (Youth and/or Adults)

3b. Coalitions and partnership meetings

- Participate in the County Nutrition Action Plan (CNAP) meetings, JUSD Wellness Committee, Healthy Jurupa, Jurupa Valley Collaborative and other nutrition education, obesity prevention coalitions in the Jurupa Valley area.

4. Policy / Systems / Environmental Changes

(Potential estimated reach of 12,000 students in the district.)

- Annually, JUSD to provide technical assistance (TA) on implementing and revising the School Wellness policy.

- Establish support at the school district to increase healthy food and beverage access and availability and increased opportunities for physical activity at qualifying schools such as:
- Expansion of the Wellness policy to address fundraising efforts, healthy school parties and access to water, etc.

Report quarterly on Policy/Systems/Environmental Change efforts impacting students and families at JUSD.

5. Documentation for Expenses and Progress Reports – Submit all fiscal and programmatic documents required by the Local Health Department (Refer to Grant Expectations and Requirement slide).

6. Impact / Outcome Evaluation (IOE) of nutrition education (5) class series

Annually, facilitate DOPH and/or SNAP-Ed funded community partner in scheduling the IOE project and reaching the minimum pre- and post-tests.

IOE Project includes: Matching a minimum of 100 pre- and post- NEOPB Youth Surveys with students who attended a (5) class series requirement.

Each year of the grant, the project rigor increases in intensity; such as increase in matched pairs and use of a control group.

Sub Staffing A

Totals:	290.00%	10.00%	0.174	\$211,062.00	\$17,301.51	\$2,869.95	\$20,171.46
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Definition and basis for calculations of benefit rate(s):

STRS: .088, Medicare: .0145, Unemployment: .0005, Workers Comp: .02977, OPEB: .01181, PERS: .11771, Pd PERS: .07., FICA: .062,

Sub A Budget Justification

Prime Grantee Name: County of Riverside Department of Public Health
Grant Number: 13-20527
Sub Grant A Name: TBD - Jurupa Unified School District

Budget/Adjustment		Operating Expenses						Budget/Adjustment/Justification
Action	Last Amt Approved	Budget Item	Description/Justification	Unit Cost	Quantity	FTE	Total	
		Office Supplies	Ink Cartridges: Black and Color Cartridges (\$250 X 4 cartridges = \$1000) for color posters	\$250.00	4.00	1.00	\$1,000.00	
				\$30.15	1.00	1.00	\$30.15	
		Printing Costs	11 X 17 Poster size paper 28lb: \$30.15 per ream - one ream					
		Printing Costs	Color Flyers for marketing programs for the year (3,000 at approx .10 per copy = \$300)	\$0.10	3000.00	1.00	\$300.00	
		Printing Costs	11 X 17 Poster size paper 20lb: \$20.10 per ream - one ream	\$20.10	1.00	1.00	\$20.10	
						1.00	\$0.00	
						1.00	\$0.00	
						1.00	\$0.00	
						1.00	\$0.00	
						1.00	\$0.00	
Total Operating Expenses:							\$1,350.25	

Budget/Adjustment		Travel and Per Diem												Budget/Adjustment/Justification	
Action	Last Amt Approved	Travel/Position Title	Location	Trips	FTE	Days	Nights	Per Diem	Lodging	Air	Miles	Reg. Fee	Other	Total	
		Two (2 day) State sponsored Snap-Ed meetings / forums; Position 3,	Sacramento	2	1	2	2	\$46.00	\$95.00	\$425.00		\$0.00	\$100.00	\$1,614.00	Jose Campos, Director of Parent Involvement and Community Outreach
		Up to 10 (1 day) NEOP SNAP-Ed Service Area coalition or promising practice events, position 3	Regional	10	1	1		\$0.00			30.00			\$168.00	Jose Campos, Director of Parent Involvement and Community Outreach
		Up to 15 (1 day) skills based trainings on SNAP-Ed approved, evidence based, program and evaluation methods, tools and resources; position 3	Regional	15	1	1		\$0.00			53.00			\$445.20	Jose Campos, Director of Parent Involvement and Community Outreach

Special Terms and Conditions

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

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

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

The terms "California Department of 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, agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

Index of Special Terms and Conditions

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

1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the California Department of Public Health (CDPH) formerly known as California Department of Health Services (CDHS).)

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

Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

2. Travel and Per Diem Reimbursement

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

Reimbursement for travel and per diem expenses from 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.

3. 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 or federal funds.)

a. Equipment definitions

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

- (1) **Major equipment/property:** A tangible or intangible item having a base unit cost of \$5,000 or more with a life expectancy of one (1) year or more and is either furnished by 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 3. Paragraph c of Provision 3 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 3. Paragraph b of Provision 3 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, or bid contract in which, to his or her knowledge, he or she has a financial interest.

(b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.

(c) Procurements shall be conducted in a manner that provides for all of the following:

[1] Avoid purchasing unnecessary or duplicate items.

[2] Equipment 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 3 by giving the Contractor no less than 30 calendar days written notice.

4. 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 or federal funds.)

- a. Wherever the terms equipment and/or property are used in Provision 4, the definitions in Provision 3, 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, 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 inventory 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. 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 extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

Automobile Liability Insurance

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by 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 (CDPH)).
 - [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 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.

5. Subcontract Requirements

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

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
 - (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
 - (2) 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 this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.

f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.

g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.

h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

"(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from 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, 10, 11, 12, 13, 14, 17, 19, 20, 24, and 31 or other numbered provisions herein that deemed applicable.

6. Income Restrictions

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

7. Audit and Record Retention

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

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that CDPH, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896).
- 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.
- g. The Contractor shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in OMB Circular A-133.

8. Site Inspection

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

9. Federal Contract Funds

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

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

10. 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 Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such

person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to 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., 2007, etc.], Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Patent Rights

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to 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.

11. Air or Water Pollution Requirements

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt under 40 CFR 15.5.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act [42 U.S.C. 1857(h)], section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

12. 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.

13. 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.

14. Documents, Publications and Written Reports

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

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

15. 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.

16. Financial and Compliance Audit Requirements

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
 - (1) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
 - (2) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
 - (3) If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by 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 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The 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 provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

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

17. Human Subjects Use Requirements

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

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

18. 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.

19. Debarment and Suspension Certification

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

- a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.
- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
 - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
 - (5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
 - (6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the CDPH Program Contract Manager.
- d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.
- e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the CDPH may terminate this Agreement for cause or default.

20. Smoke-Free Workplace Certification

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

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

21. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

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

22. 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 Agreement, 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.

23. 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.

24. 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.

25. Four-Digit Date Compliance

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

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

26. 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.

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

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

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

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

28. Alien Ineligibility Certification

(Applicable to sole proprietors entering federally funded agreements.)

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

29. 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.

30. 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 an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

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

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

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

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

31. Lobbying Restrictions and Disclosure Certification

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

a. Certification and Disclosure Requirements

- (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.
- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:

- (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
 - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
 - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to CDPH Program Contract Manager.

b. Prohibition

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

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH
CERTIFICATION REGARDING LOBBYING

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

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

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

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

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

Name of Contractor

Printed Name of Person Signing for Contractor

Contract / Grant Number

Signature of Person Signing for Contractor

Date

Title

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

California Department of Public Health

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

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

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

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

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



INFORMATION SECURITY OFFICE

Information Systems Security
Requirements for Projects
(ISO/SR1)

Version 3.5

October 2007

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.



<i>Type:</i> ISO Requirements	
<i>Issued:</i> October 26, 2007	<i>Doc Number:</i> SR 1/v3.5
<i>Revised:</i>	
<i>Title:</i> Information Systems Security Requirements for Projects	

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 consume Department information system services are also subject to these minimum security requirements.

This document is intended to assist the Department and its service consumers in understanding the criteria the Department will use when evaluating and certifying the system design and security features and protocols used by project solutions consuming 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

III. Contact

Chief Information Security Officer
California Department of Public Health
Information Security Office
1615 Capital 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 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 DTS and Department standards for change control process and procedures.

9. Incident Response

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

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 Appendix "J" Template from the Department's ORP.

11. Emergency Mode Operation Plan

Establish an Emergency Mode Operation Plan 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

Public 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, Health Administrative Manual, 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 anti-virus and 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 or 3DES (Triple DES) 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 or 3DES (Triple DES) 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 California Strategic Sourced Initiative (CSSI) located at the following link:
www.pd.dgs.ca.gov/masters/EncryptionSoftware.html

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 California Strategic Sourced Initiative (CSSI) located at the following link:
www.pd.dgs.ca.gov/masters/EncryptionSoftware.html

8. Secure Connectivity

All transmission and data-links between the information and application/system and DBMS and the DTS 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 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 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 CSSI.

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, Health Administrative Manual, 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. Access Point Warning Banner

All systems containing Department information shall display a 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, 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 department CISO.

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.
 - Password must NOT be stored in clear text.
 - Must be changed at least every 60 days.
 - Must be changed immediately if revealed or compromised.
 - Passwords must be encrypted using irreversible industry-accepted strong encryption.
 - Accounts must be locked after 3 failed logon attempts.
 - Account lock-out reset timers must be set for a minimum of 15 minutes.
 - 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).

13. Administrator Username/Password Based Authentication

- 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 administrator usernames must not make it obvious that usernames belong to administrator accounts.
 - If a generic Administrator 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 administrator 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).

14. 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.

15. User / Entity Authentication Logging

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 and/or confidential information.

16. Automatic System Session Expiration

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

17. 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 departmental ISO.

18. 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

19. 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.

20. 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, and the like.

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 (ie: 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 Program's ISO that would not hinder a detailed forensic investigation of the occurrence. The Department ISO has final approval authority.

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 will ensure a custodian(s) is assigned to each application/component.

2. Data In Use Classifications

Project 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 will document the organizational structure and relationships between systems managers, systems security personnel, and users, including an estimate of the number of users that will have access to Department information within the system solution and an explanation of their job descriptions.

4. Audit Method Documentation

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

5. Retention of Documentation

The system/application maintainers 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

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 ISO, no changes will be made to the project scope, documentation, systems or components without a change approval by the ISO.

3. Notification of Breach or Compromise

The system/application maintainers shall immediately and in writing report to the ISO on 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 ISO may require a system/application security audit. The 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 maintainers shall properly implement any and all recommendations of the security audit, as approved by the ISO.



INFORMATION SECURITY OFFICE

Information Systems Security IIS6.0 Security Requirements (ISO/SR5)

Version 1.0

August 2010

TABLE OF CONTENTS

I.	PURPOSE.....	3
II.	CONTACT.....	3
III.	INFORMATION SYSTEMS SECURITY IIS SECURITY REQUIREMENTS	4
A.	IIS MANAGEMENT AND IMPLEMENTATION STANDARDS	4
	1. <i>Scope</i>	4
	2. <i>Patches and security fixes</i>	4
	3. <i>Session Expiration and Lockout</i>	4
	4. <i>Registry</i>	4
	5. <i>Services</i>	4
	6. <i>Prohibited installations</i>	4
	7. <i>FrontPage Server Extensions</i>	4
	8. <i>Account Policies</i>	4
	9. <i>Authentication – Intranet & Extranet</i>	5
	10. <i>ASP.NET account</i>	5
	11. <i>Utilities</i>	5
	12. <i>Default site</i>	5
	13. <i>IIS Auditing</i>	5
	14. <i>ISAPI Filters</i>	5
	15. <i>Script Mappings</i>	6
	16. <i>Executables</i>	6
	17. <i>Content Authoring</i>	6



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I. Purpose

This document provides the Information Systems Security Internet Information Services (IIS) Workstation Security Requirements mandated by the CDPH Information Security Office (ISO) for applications, projects, and technology implementations subject to the policies and standards of the Department. All workstations that utilize IIS installations for web development and testing that are part of the Department's system infrastructure are subject to these IIS Workstation Security Requirements.

This document is intended to assist CDPH and its customers in understanding the IIS Workstation Security Requirements the Department will use when instituting the system design, security features, security protocols, technology implementations, and technology configurations, of Department services. The security standards and guidelines herewith will be used as the Department's ISO compliance review program for its information system services customers.

This document is intended to ensure Department information needs are satisfied by our technology organization consistent with the information criteria identified in relevant mandates and laws.

These requirements do not serve any specific project, nor do they prescribe any specific implementation technology.

II. Contact

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

III. Information Systems Security IIS Security Requirements

A. IIS Management and Implementation Standards

1. Scope

This standard applies to all workstations, laptops, and tablets, that have Internet Information Services (IIS) 6.0 installed for web development and testing.

2. Patches and security fixes

Install all applicable service packs, patches and hot fixes according to ITSD schedule.

3. Session Expiration and Lockout

Configure low session time-outs and account lockouts.

4. Registry

- Restrict remote registry access.
- Secure SAM (HKLM\System\CurrentControlSet\Control\LSA\NoLMHash).

5. Services

- Ensure services are running with least-privileged accounts.
- Disable SMTP, FTP, NTP, SNMP, and all other unnecessary services.
- Disable ASP.NET state service if not used by your applications.

6. Prohibited installations

- Do not install Data Access Components (DAC) unless specifically needed.
- Do not install the HTML version of the Internet Services Manager.
- Do not install the Index Services unless required.

7. FrontPage Server Extensions

Do not install the FrontPage Server Extensions (FPSE) unless required. If FPSE are used, update and restrict access to them.

8. Account Policies

- Set strong account and password policies according to ITSD policy.
- Do not allow users and administrators to share accounts.
- Do not create more than two accounts in the Administrators group.

- Require administrators to log on locally. Remove remote IIS administration application.
- Remove unused accounts from the workstation.
- Disable Windows Guest account.
- Restrict the Everyone group (no access to WINNT\system32 or Web directories).

9. Authentication – Intranet & Extranet

- Disable Null sessions (anonymous logons).
- Disable IUSR_MACHINE account if it is not used by the application.
- Anonymous access to local IIS installations on developer workstations must be approved by the CDPH ISO. If absolutely required for web development at the workstation, create a custom least-privileged anonymous account if applications require anonymous access and manually add these account to the WebAnonymousUsers group. If you host multiple Web applications, configure a separate anonymous user account for each one.

10. ASP.NET account

Configure the ASP.NET process account for least privilege. (This only applies if you are not using the default ASP.NET account, which is a least-privileged account.)

11. Utilities

Remove resource kit tools, utilities, and SDKs, unless required for development.

12. Default site

Create a new site and disable the default site.

13. IIS Auditing

- Audit failed logon attempts.
- Relocate and secure IIS log files. Regularly archive and analyze log files.
- Configure log files with an appropriate file size depending on the application security requirement.
- Audit access to the Metabase.bin file.

14. ISAPI Filters

Remove unnecessary or unused ISAPI filters.

15. Script Mappings

Map unnecessary ASP.NET file type extensions to "HttpForbiddenHandler" in Machine.config.

16. Executables

Store executable files in a separate directory. This makes it easier to assign access permissions and audit for administrators.

17. Content Authoring

- Ensure there is script source access only on folders that support content authoring.
- Ensure there is write access only on folders that support content authoring and these folders are configured for authentication (and SSL encryption, if required).